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BRIDGING TRADE AND GENDER JUSTICE LEGAL REFORM PATHWAYS FOR INDONESIA

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ABSTRACT

The relationship between international trade and gender equality has received increasing attention within global economic governance. While trade liberalization is often promoted as a driver economic growth, its benefits are not distributed equally among social groups, women, women with disabilities, indigenous women, girls, and other gender minorities. Evidence also shows that women face higher obstacles to trade than men, through legal prohibitions to economic participation, discrimination in the granting of finance, the persisting gender digital divide, and knowledge gaps in trade and trade rules. Recent developments within the World Trade Organization and international human rights instruments have encouraged states to adopt gender responsive approaches to trade policymaking. As a member of the World Trade Organization and a party to the Convention on the Elimination of All Forms of Discrimination against Women, Indonesia is expected to integrate gender equality into its trade governance framework. This article examines the extent to which Indonesia trade law align with international regulations and identifies legal reform pathways for strengthening gender justice within national trade regime. Using normative legal research approach, the study finds although Indonesia has adopted gender mainstreaming policies, gender considerations remain insufficiently integrated into trade related regulations and institutions. This article suggests that Indonesia should move from a gender neutral to a gender responsive trade governance model through measures such as gender impact assessments, stronger institutional coordination, gender responsive trade regulations, and the incorporation of gender provisions in future trade agreements to promote inclusive and sustainable economic development

Keywords:. *Trade, Gender, Legal, Reform, Indonesia*

INTRODUCTION

Three decades after the codification of the landmark Beijing Declaration and Platform for Action, the realization of substantive gender equality remains structurally elusive. Persistent statutory barriers continue to obstruct women's formal employment trajectories, while concurrently failing to eradicate the systemic scourges of early child marriage and gender-based violence. Furthermore, the disproportionate allocation of uncompensated domestic and caregiving labor operates as a continuous structural constraint on female socioeconomic advancement, despite exhibiting notable cross-jurisdictional variations. In the sphere of public law and governance, female legislative and political representation displays an alarmingly stagnant trajectory. Concurrently, autonomy regarding reproductive healthcare and bodily self-determination remains heavily restricted across various jurisdictions. Deep seated institutional disparities in real property ownership, statutory legal protections, and access to digital infrastructure underscore the extensive legal and policy interventions required to fulfill the United Nations Sustainable Development Goals by the 2030 benchmark. For Indonesia, addressing these disparities is not merely a policy preference but

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an explicit constitutional imperative, rooted in the anti-discrimination protections of Article 28I of the 1945 Constitution (UUD 1945). Ultimately, as domestic economic structures intertwine with international markets, reconciling these deep-seated disparities requires a fundamental reevaluation of the intersection between national statutory frameworks, international trade regimes, and gender justice.

Currently, a confluence of unprecedented global crises exerts a disproportionately adverse impact on women, girls, gender minorities, and marginalized populations.(Accelerate Gender Equality For A Sustainable, Resilient, And Inclusive Future, n.d.) Intersecting phenomena, including anthropogenic climate change, systemic fragility, forced migration, and global health emergencies threaten to erode hard-won advancements in female human capital. For an archipelagic nation like Indonesia, climate-induced vulnerabilities acutely disrupt agrarian and coastal livelihoods, wherein women often bear the brunt of resource scarcity. When these crises converge with macro-structural transformations, gender-based institutional barriers increasingly jeopardize entire societies, including male demographics.

In practice, women and other gender diverse groups often face disproportionate barriers in participating in and benefiting from international trade. These barriers include limited access to finance, unequal control over productive resources, discriminatory legal and institutional frameworks, and persistent gaps in digital access and trade-related knowledge. Such conditions restrict their ability to engage as entrepreneurs, workers, and consumers in global and domestic markets. As a result, trade liberalization may inadvertently reinforce existing inequalities unless it is accompanied by explicit gender-responsive legal and policy measures.

In the terms of labor and trade market, the systemic domestic labor disparity is clearly reflected in international benchmarking metrics. Global Gender Gap Index Data puts Indonesia in 85th place out of 153 countries, with a score of 0.70, while Iceland at the top has a score of 0.877. Within the Indonesian domestic market, a persistent disparity characterizes the gender composition of the workforce, with women remaining profoundly underrepresented relative to their male counterparts. Empirical data from the Central Statistics Agency's (Badan Pusat Statistik) August 2018 Labour Force Survey illustrates this systemic demographic friction: out of a closely balanced productive-age demographic comprising 97.2 million males and 97.5 million females, female economic mobilization reached a mere 50.6 million—representing only 52% of the eligible female population.(Economic Empowerment for Women-Led MSMEs in Rural Indonesia Lessons from Indonesian CSOs, n.d.) Conversely, male labor force participation stood at 80.4 million, commanding an 83% inclusion rate. This stark domestic imbalance aligns with historical trends; (Halim et al. 2019) observed that Indonesia's female labor force participation rate hovered at just 50.9% in 2016, a figure that falls significantly below regional benchmarks across the Asia-Pacific corridor. also found increased competition driven by a reduction in output tariffs encourages women's employment; however, new evidence that shows that a reduction in input tariffs may hurt women's employment. Geopolitically, while nations such as Laos, Vietnam, Cambodia, Japan, Singapore, and China define the upper echelons of female macroeconomic integration, Indonesia remains clustered alongside South Korea, Mongolia, Malaysia, and Myanmar, all of which exhibit chronic underutilization of female human capital.

Activities empowering women economically have contributed to the achievement of gender equality at the family and village levels. The concept of empowerment is visible and can be directly noticed in the better power relationships within the women's households, family economic benefits, and personal growth attained by women. Examining the enhanced educational accomplishments of women and their families, as well as their increased social status, provides indirect proof of empowerment.(Economic Empowerment for Women-Led

MSMEs in Rural Indonesia Lessons from Indonesian CSOs, n.d.) Implementing such interventions is not merely a matter of human rights compliance, but a strategic prerequisite for sustainable economic development. A substantial body of evidence demonstrates that gender equality contributes to improved economic outcomes by fostering women's participation that often experience fewer economic and workplace benefits than men and inclusion in economic activities. However, relatively limited attention has been devoted to examining whether gender equality also influences the reduction of income disparities across countries. This issue is of considerable importance, as providing women with equal opportunities may enable lower-income economies to realize their productive potential more fully and, consequently, facilitate convergence toward the living standards of higher-income countries.(Sever 2022) Dismantling gender-based legal and social impediments also catalyzes economic productivity, mitigates systemic poverty, strengthens social cohesion, and elevates intergenerational well-being.

As a WTO member and a state party to CEDAW, Indonesia carries dual obligations to ensure that its trade regime aligns with both global trade rules and international human rights standards. At the national level, Indonesia has established a legal foundation for trade governance through Law No. 7 of 2014 on Trade, alongside implementing regulations such as Government Regulation No. 29 of 2021 on the Implementation of the Trade Sector. In addition, gender equality commitments are reflected through Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in National Development and the National Medium-Term Development Plan (RPJMN) 2025-2029, which together establish gender mainstreaming as a cross-sectoral development principle. Despite these normative and policy commitments, there remains a question as to whether gender considerations have been substantively integrated into Indonesia's trade legal framework or remain largely declarative in nature.(Unctad, n.d.) Existing indications suggest that Indonesia's trade regime continues to operate primarily within a gender-neutral framework, with limited explicit mechanisms to assess or address the differentiated impacts of trade policies on women and marginalized gender groups.

Against this background, this article examines the extent to which Indonesia's trade law aligns with international gender equality standards and explores legal reform pathways for strengthening gender justice within the national trade governance system. Such an inquiry is especially timely because, notwithstanding the clear imperatives for reform, achieving substantive gender equality within the global market remains an exceptionally complex and multidimensional challenge. It requires not only domestic legal adjustments but also a broader reconfiguration of institutional frameworks, whereby international trade regimes move beyond a narrow focus on economic efficiency and actively incorporate human rights and gender equality considerations into their regulatory design and implementation.

METHOD

This study employs normative legal research, which examines law as a system of norms through the analysis of relevant legal materials. Normative legal research focuses on identifying, interpreting, and evaluating applicable legal rules and principles in order to formulate prescriptive arguments regarding what ought to be done under the prevailing legal framework.(Putra et al. 2026) In light of the research objective, this study evaluates the extent to which Indonesia's trade laws and policies align with international standards on gender equality and gender responsive trade governance, while also identifying legal reform pathways to strengthen gender justice within the national trade regime.

The research adopts a statutory approach, one of the principal approaches in normative legal research. This approach involves a comprehensive examination of laws and regulations relevant to the legal issues under study. This includes Indonesian trade laws and regulations, such as Law No. 7 of 2014 on Trade and its implementing regulations, as well as legal

instruments relating to gender equality and gender mainstreaming. The analysis also extends to international legal frameworks, particularly Indonesia's obligations under the World Trade Organization (WTO) regime and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Through the analysis of statutory provisions and related legal instruments, the research seeks to assess the consistency, applicability, and implications of the existing legal framework in addressing the subject matter of the study.(Putra et al. 2026)

In addition, the study employs a conceptual approach aims to provide a rigorous philosophical explanation of various concepts that develop in legal discourse.(Ansari and Negara, n.d.) A conceptual approach on this study is to examine legal doctrines and scholarly perspectives on gender equality, gender mainstreaming, trade governance, and the intersection between international trade law and human rights law. The collected legal materials are analyzed qualitatively through legal interpretation and normative assessment to determine the degree of alignment between Indonesia's trade framework and international gender equality standards. Based on this analysis, the study formulates normative recommendations for legal and regulatory reforms aimed at advancing gender-responsive and inclusive trade governance in Indonesia.

RESULTS AND DISCUSSIONS

1. Examining Gender Equality Integration in Trade Law and Governance in Indonesia

Gender equality is indicated by the absence of discrimination between men and women. In the era of globalization, gender equality in Indonesia continues to increase, but gender discrimination still cannot be eliminated.(Khasanah and Sasana 2022) Gender discrimination is often directed at women who are considered human beings with a lower position than men. Discrimination against women has been a long process where all forms of action display unequal conditions between men and women. Gender discrimination against women exists in the form of marginalization, stereotypes, subordination, and violence against women. Women are not on the same footing as men in many areas, including when it comes to accessing the opportunities created by trade. Gender inequality is a long, widespread and stubborn form of inequality. It will now take more than 130 years to close the gender gap globally, and in 2022, a woman still had only three-quarters of the rights of a man. Evidence shows that women constitute 38 per cent of the global formal workforce, and they are paid, on average, only 77 per cent of what men earn worldwide.(Bahri et al. 2023)

Indonesia has taken several steps to promote gender equality at the international and national levels. Indonesia also ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1984. At the national level, a gender equality parameter was introduced in 2011 by the Ministry of Women Empowerment and Child Protection in partnership with the Ministry of Law and Human Rights and the Ministry of Home Affairs. It aims to implement a holistic gender approach to policy formulation at the national and provincial level with respect to the access, participation, control, and benefits resulting from laws and regulations, and it embodies the principles of the CEDAW. There are several policy measures to support gender mainstreaming in policymaking at the provincial level as well. Against this backdrop, Indonesia, as a member of the World Trade Organization (WTO), is also bound by international trade commitments that shape its regulatory framework for economic governance. This dual positioning places Indonesia within a broader normative framework that requires the harmonization of trade liberalization objectives with its obligations to advance gender equality and ensure inclusive development outcomes.

At the domestic level, trade governance in Indonesia is primarily structured under Law No. 7 of 2014 on Trade and Government Regulation No. 29 of 2021 on the Implementation of

the Trade Sector.(UU Nomor 07 Tahun 2014, n.d.) These instruments provide a comprehensive regulatory framework for trade administration, including distribution systems, export and import governance, and market supervision. However, they do not explicitly incorporate gender-responsive provisions or institutional mechanisms such as gender impact assessments in trade policymaking. This indicates that gender considerations remain largely external to the normative architecture of trade law.

Indonesia's development planning framework has formally integrated gender equality through cross-sectoral mainstreaming policies. The National Medium-Term Development Plan (RPJMN) 2025–2029, established under Presidential Regulation No. 12 of 2025, explicitly identifies gender and social inclusion as one of its mainstreaming principles, alongside sustainable development, digital transformation, and climate resilience. As stated on National Priority 4: Strengthening Human Resources (HR) Development, Science, Technology, Education, Health, Sports Achievement, Gender Equality, and Strengthening the Role of Women, Youth (Millennials and Generation Z), and Persons with Disabilities states that prosperous, adaptive, noble, culturally advanced, superior, and competitive human resources are the primary capital for achieving the Vision of Golden Indonesia 2045. Development must begin with the provision of basic services and the formation of human capital as the foundation of development transformation. Inclusive and gender-equality-based human development aims to provide every individual with the opportunity to optimize their potential, thrive, and live a prosperous life both physically and mentally. In the medium-term development plan 2025–2029, the government is committed to strengthening human resources development, science, technology, education, health, sports achievements, gender equality, and strengthening the roles of women, youth, and persons with disabilities. This reflects a significant normative advancement in embedding gender equality within national development planning architecture. Nevertheless, the translation of this mainstreaming agenda into sector-specific legal regimes, particularly trade governance, remains limited.(Badan Perencanaan Pembangunan Nasional, n.d.)

Similarly, Presidential Instruction No. 9 of 2000 on Gender Mainstreaming in National Development and earlier development planning frameworks established gender equality as a cross-sectoral principle. However, these instruments are predominantly programmatic in nature and lack binding legal force within sectoral regulatory systems. As a result, their operationalization within trade law remains fragmented and dependent on administrative discretion rather than enforceable legal obligation.

From a normative legal perspective, this institutional configuration reflects a persistent gap between development level commitments and sectoral legal implementation. Trade governance in Indonesia continues to operate largely within a gender-neutral regulatory paradigm, which assumes formal equality without adequately addressing differentiated socio-economic impacts. The absence of mandatory gender impact assessment mechanisms or gender-responsive trade regulatory tools limits the capacity of the legal system to translate equality commitments into substantive outcomes. Consequently, although Indonesia has progressively strengthened its commitment to gender mainstreaming within national development planning that recently reaffirmed in RPJMN 2025-2029, the integration of gender equality into trade law and governance remains incomplete. This reveals a structural disjunction between international obligations under CEDAW, national development planning instruments, and the operative framework of trade regulation.

2. Legal Reform Pathways for Strengthening Gender Justice in Indonesia's Trade Governance

The commitment to sustainable development was formally incorporated into the global trading system through the WTO's Marrakesh Agreement in 1995, where it was highlighted in the Agreement's preamble. Over the following twenty-five years, policy discussions

increasingly embraced sustainable development as a key consideration within international trade. The Addis Ababa Action Agenda further strengthened the connection between trade and gender equality by acknowledging the important role of women as entrepreneurs and traders and emphasizing the need to address barriers that limit their equal participation in domestic, regional, and global markets. In addition, the United Nations General Assembly has encouraged the WTO, the World Bank Group, and other international and regional organizations to support national efforts and complementary initiatives aimed at implementing the Beijing Declaration and Platform for Action and advancing women's rights. The 2030 Agenda for Sustainable Development also recognizes international trade as a vital driver of inclusive and sustainable economic growth and as an essential instrument for achieving the Sustainable Development Goals (SDGs). Among these goals, SDG 5 specifically focuses on attaining gender equality and empowering all women and girls.

A study from emphasizes that strengthening women's full and meaningful participation across economic sectors is essential to advancing substantive gender equality within Indonesia's trade governance framework. Persistent gender inequality is unlikely to be addressed without targeted legal and policy interventions that enhance women's access to, participation in, and benefits from economic activities. From a normative legal perspective, the empowerment of women should therefore be understood as an integral component of equitable and inclusive trade governance. Additionaly, the digital economy boom has the potential to benefit women entrepreneurs by reducing market entry barriers and streamlining supply chains. However, low educational attainment, low computer and IT literacy, and traditional gender norms work together to form structural barriers for female entrepreneurs to improve their businesses.(Dina, n.d.) In this context, the pursuit of fairness and inclusivity is not merely a developmental objective but also a legal and policy imperative. Indonesia's trade regime will achieve more sustainable and inclusive outcomes when regulatory frameworks actively facilitate the participation of all societal groups, including women, in economic processes

There are two distinct yet complementary approaches to promoting policies that enhance women's empowerment: bottom-up and top-down. The bottom-up approach involves efforts to change national laws, procedures, institutions, culture, and social norms at the domestic level to remove barriers that hinder women's empowerment. The top-down approach relies on using international law to encourage changes at the domestic level. By applying the top-down approach, multilateral and bilateral trade policies can be used to reduce barriers to women's empowerment, as they can prompt changes in domestic laws, policies, societal structure, and workplaces. economic sectors.(FINANCING FOR GENDER EQUALITY IN THE CONTEXT OF THE SUSTAINABLE DEVELOPMENT GOALS STEPHANIE SEGUINO FOR THE EXPERT GROUP MEETING IN PREPARATION FOR THE 60TH SESSION OF THE COMMISSION ON THE STATUS OF WOMEN 2016)

Strengthening gender justice within Indonesia's trade governance requires reforms that move beyond formal commitments to gender equality and establish concrete legal, institutional, and economic mechanisms that address the structural barriers faced by women in trade. International developments within the World Trade Organization (WTO) provide useful guidance for such reforms. Globally, WTO members have adopted a wide range of gender-responsive trade policies, focusing on approximately eighteen categories of interventions designed to increase women's participation in international trade. These measures commonly include financial and non-financial support for women-owned and women-led micro, small, and medium-sized enterprises (MSMEs), as well as initiatives aimed at reducing financial and administrative barriers that disproportionately affect women entrepreneurs.

One of the most significant obstacles to women's participation in international trade is limited access to finance. Without adequate financial resources, women entrepreneurs often struggle to meet trade-related requirements, including investments in digital technologies, compliance with technical standards, customs procedures, packaging, logistics, and trade finance. Consequently, legal reforms in Indonesia should prioritize the creation of gender-responsive financing frameworks that facilitate women's access to capital and export-related funding. Indonesia could adopt regulatory measures requiring state-owned banks, export credit agencies, and public financing institutions to allocate dedicated funding schemes for women-owned enterprises engaged in international trade. Similar approaches have been implemented in several WTO member states through targeted financing programmes, preferential loan schemes, and dedicated women's entrepreneurship funds. Such measures would help address the gender financing gap and improve women's capacity to participate in regional and global markets. In addition, Indonesia should consider introducing preferential procurement and trade promotion policies that reserve a certain proportion of government-supported export programmes, trade fairs, and capacity-building initiatives for women-owned businesses. Special quotas or affirmative action mechanisms have been used in various jurisdictions to ensure that women entrepreneurs can effectively access trade incentives and business development opportunities.

Beyond financial support, Indonesia should also adopt non-financial measures to reduce structural barriers that limit women's participation in trade. Many WTO members have introduced simplified business registration and licensing procedures for MSMEs and women entrepreneurs to reduce administrative burdens and eliminate delays that may arise from gender-based discrimination in approval processes. Such reforms are particularly important because regulatory procedures increase transaction costs and can discourage women from engaging in entrepreneurial and export activities. In addition, legal and policy frameworks should support capacity building programmes that strengthen women's business and financial management skills. Training initiatives focused on export readiness, digital commerce, financial literacy, and international market requirements can enhance the ability of women-owned enterprises to compete in regional and global markets. These programmes are especially relevant for Indonesian MSMEs seeking to integrate into global value chains. The government could further promote women's economic participation by developing dedicated digital platforms that enable businesswomen to showcase and market their products domestically and internationally. Such platforms could provide information on export opportunities, trade regulations, financing schemes, and networking opportunities, thereby improving women's access to international markets. Combined with gender-responsive financing and institutional reforms, these non-financial incentives would contribute to a more inclusive trade governance framework that addresses both economic and structural barriers faced by women entrepreneurs.

Legal reform should also focus on institutionalizing gender impact assessments within trade policymaking. Existing trade agreements and future negotiations should be subject to systematic evaluations of their potential effects on women workers, entrepreneurs, and consumers. Embedding gender analysis into trade governance would enable policymakers to identify unequal outcomes and design corrective measures before implementation. Furthermore, Indonesia could strengthen inter agency coordination between the Ministry of Trade, the Ministry of Women's Empowerment and Child Protection, the Ministry of Finance, and export promotion agencies to ensure that gender considerations are mainstreamed throughout trade policy formulation and implementation. The collection of sex-disaggregated trade data should likewise be mandated to support evidence based policymaking and facilitate monitoring of gender equality outcomes.

These reforms would align Indonesia's trade governance framework with international commitments under the Sustainable Development Goals, particularly SDG 5 on gender equality, while promoting a more inclusive and equitable trading system. By combining gender-responsive financing and non-financing support for women-owned enterprises, institutional gender mainstreaming, and data driven policymaking, Indonesia can create a trade governance model that advances both economic competitiveness and gender justice

CONCLUSION

Despite Indonesia’s commitments under international and domestic legal frameworks, gender considerations remain only partially integrated into trade policymaking and regulatory structures. As a result, women who often face disproportionate barriers in participating in and benefiting from trade activity continue to face systemic barriers. The findings underscore the need for a more gender-responsive approach to trade governance that moves beyond formal commitments toward substantive equality. Achieving this objective requires not only targeted legal and institutional reforms such as gender-responsive trade policies, enhanced support for women-owned enterprises, and gender impact assessments but also a broader reorientation of trade governance. In this regard, trade regimes should no longer be viewed solely as instruments of economic liberalization and efficiency; rather, they should be understood as regulatory frameworks capable of advancing human rights, social inclusion, and gender equality. Ultimately, strengthening gender justice within Indonesia’s trade governance system is both a legal and developmental imperative. Embedding gender considerations more systematically into trade law and policy would contribute to a more inclusive and equitable distribution of trade benefits while reinforcing Indonesia’s commitments as a member state of CEDAW and WTO, to sustainable development, women’s economic empowerment, and other international gender equality norms.

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