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Legal Fragmentation and Failures in Protection: Online Gender-Based Violence (OGBV) Against Female Legislative Candidates in the 2024 Elections

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Abstrak

Kekerasan Berbasis Gender Online (KBGO) terhadap calon anggota legislatif perempuan dalam Pemilu 2024 memperlihatkan tantangan perlindungan hak politik perempuan di ruang digital, terutama dalam penerapan kerangka hukum yang tersebar pada berbagai rezim pengaturan. Penelitian ini bertujuan menganalisis fragmentasi hukum dan implikasinya terhadap perlindungan caleg perempuan dari KBGO di Indonesia. Penelitian menggunakan metode yuridis-normatif dengan pendekatan perundang-undangan, konseptual, dan kasus. Bahan hukum primer berupa peraturan perundang-undangan dianalisis bersama bahan hukum sekunder dan laporan pemantauan dari lembaga terkait sebagai bahan pendukung untuk mengidentifikasi pola kekerasan dan persoalan penanganannya. Hasil penelitian menunjukkan adanya ketidakselarasan cakupan norma, ketidakjelasan pembagian kewenangan, serta belum terintegrasinya mekanisme pelaporan, perlindungan, dan pemulihan antar lembaga. Kondisi tersebut mengindikasikan bahwa fragmentasi regulasi menjadi salah satu persoalan normatif dan kelembagaan dalam pemenuhan perlindungan hukum. Penelitian ini menegaskan pentingnya harmonisasi lintas rezim hukum dan penguatan koordinasi kelembagaan untuk menjamin pelaksanaan hak politik perempuan secara setara di ruang digital.

Kata Kunci: Caleg Perempuan; Fragmentasi Hukum; Hak Politik Perempuan; Kekerasan Berbasis Gender Online; Pemilu 2024.

Abstract

Online Gender-Based Violence (OGBV) against female legislative candidates in the 2024 General Election highlights the challenges of protecting women's political rights in the digital sphere, particularly regarding the implementation of a legal framework that is scattered across various regulatory regimes. This study aims to analyze legal fragmentation and its implications for the protection of female legislative candidates from OGBV in Indonesia. The study employs a juridical-normative method using legislative, conceptual, and case-based approaches. Primary legal sources comprising laws and regulations were analyzed alongside secondary legal sources and monitoring reports from relevant institutions as supporting materials to identify patterns of violence and issues in its handling. The results of the study reveal inconsistencies in the scope of legal norms, unclear divisions of authority, and a lack of integration among reporting, protection, and redress mechanisms across

institutions. These conditions indicate that regulatory fragmentation is one of the normative and institutional challenges in ensuring legal protection. This study underscores the importance of harmonization across legal regimes and the strengthening of institutional coordination to ensure the equal exercise of women's political rights in the digital sphere..

Keywords: *Female Legislative Candidates; Legal Fragmentation; Online Gender-Based Violence; Women's Political Rights; 2024 General Election.*

Introduction

The 2024 General Election should have provided an equal arena of political contestation for all citizens. Yet, amid the noise of election campaigns and promises of change, some voices gradually disappeared. They were not silenced because of electoral defeat, but rather because they had already been muted in the digital sphere. Sexualized comments, threats to distribute private content, account hacking, and doxing were among the forms of attacks experienced by female legislative candidates through the seemingly invisible channels of digital communication, beyond the reach of formal political institutions. For some women, what was initially perceived as a democratic contest had transformed into an arena fraught with risks.[1]

This phenomenon is known as Online Gender-Based Violence (OGBV). OGBV operates discreetly yet systematically, unlike physical violence, which often leaves visible traces. It targets not only individuals but also women's willingness and confidence to participate, speak out, and remain active in the political arena. Its consequences are immediately apparent: self-censorship increases, digital campaigning becomes increasingly restricted, and some female candidates choose to withdraw before election day.[2]

Empirical data shows that gender-based violence in digital political contests is a serious issue. A survey conducted by the Indonesian Women's Coalition (KPI) of 214 female legislative candidates during the period from June 14, 2023, to March 24, 2024, via online telephone interviews, found that 84.1% of respondents had experienced and/or witnessed Online Gender-Based Violence (OGBV) during the 2024 election cycle.[3] However, this figure must be interpreted with caution because it combines two distinct categories of experience: victims who experienced violence directly and respondents who merely witnessed violence against others.

These findings were corroborated by a study conducted by the Westminster Foundation for Democracy (WFD) in collaboration with the Women Research Institute (WRI) in the report Violence against Women in Indonesia's 2024 Elections, published in February 2025. Using a Feminist Participatory Action Research (FPAR) approach through a mixed-methods design, the study involved a survey of 100

[1] Mouliza K. Donna Sweinstani dkk., "Online Gender-Based Violence in Indonesia's 2024 Elections: Evidence from Social Media and Women Politicians' Experiences," *Frontiers in Political Science* 8 (Agustus 2026), https://doi.org/10.3389/fpos.2026.1880871.

[2] Ellen Kusuma dan Sekar Arum, *Memahami dan Menyikapi Kekerasan Berbasis Gender Sebuah Panduan – SAFEnet*, 2024, https://safenet.or.id/memahami-dan-menyikapi-kekerasan-berbasis-gender-sebuah-panduan/.

[3] Aurel, *84 Persen Caleg Perempuan Jadi Korban KBGO di Pemilu 2024* (2024), https://kbr.id/articles/indeks/84-persen-caleg-perempuan-jadi-korban-kbgo-di-pemilu-2024.

women active in politics, focus group discussions with 60 participants, in-depth interviews with 10 politicians, and a survey of 100 voters. The report identifies various forms of digital violence against women in politics, including verbal harassment on social media, smear campaigns, threats via electronic messages, and coordinated attacks using anonymous accounts and bots. It also shows that digital violence drives some women to limit their activities and presence in digital spaces.[4]

At the national level, the National Commission on Violence Against Women recorded 1,791 reported cases of gender-based online violence (OGBV) throughout 2024, a 40.8% increase compared to the previous year.[5] These data provide insight into the extent of the OGBV problem in Indonesia, although they do not specifically identify cases experienced by female legislative candidates or limit their scope to the electoral context. Therefore, these three findings are best understood as complementary evidence regarding the existence and complexity of gender-based online violence in the digital space and the political arena, rather than as prevalence figures that can be directly compared. Despite these methodological limitations, these findings demonstrate that gender-based online violence poses a real threat to women's safety in carrying out political activities and has the potential to limit their ability to exercise their political rights on an equal footing.

Nevertheless, several existing legal instruments have proven insufficient to provide adequate protection. Law enforcement authorities tend to adopt a reactive approach and rely heavily on complaint-based offenses (delik aduan); victims' reports are frequently not examined comprehensively, and inter-agency coordination remains weak.[6] As the visibility of female legislative candidates increases and digital attacks intensify throughout the campaign period, these protection gaps become increasingly pronounced.

Previous studies have examined Online Gender-Based Violence (OGBV) from the perspectives of its social impact, legal protection, and women's political participation. (Akbar *et al.* 2026)[7] found that gender-based violence in online media produces multidimensional consequences, ranging from psychological and social pressures to violations of fundamental human rights principles. Their findings emphasize that OGBV is not merely a matter of digital interactions but also concerns the protection of women's fundamental rights. Furthermore, (Sabatini *et al.* 2026)[8] identified various forms of gender-based verbal violence on social media that reflect

[4] Sita Aripurnami dkk., "Violence against Women in Indonesia's 2024 Elections," 25 Februari 2025, https://www.wfd.org/what-we-do/resources/violence-against-women-indonesias-2024-elections.

[5] Rikhul Jannah, "Komnas Perempuan Ungkap Ada 1.791 Kasus KBGO pada 2024, Relasi Kuasa Jadi Persoalan Serius," NU Online, 2025, https://nu.or.id/nasional/komnas-perempuan-ungkap-ada-1-791-kasus-kbgo-pada-2024-relasi-kuasa-jadi-persoalan-serius-MCl4j.

[6] Anton Muhajir dkk., *SAFEnet: Pemilu 2024 Memperburuk Situasi Hak-hak Digital selama 2023 – SAFEnet*, t.t., diakses 4 November 2026, https://safenet.or.id/siaran-pers-safenet-pemilu-2024-memperburuk-situasi-hak-hak-digital-selama-2023/.

[7] Kiljamilawati Akbar dkk., "Analisis Kekerasan Berbasis Gender Daring (KBGO) Di Indonesia: Bentuk, Dampak, Dan Perlindungan Hukum," *Al-Ubudiyah: Jurnal Pendidikan Dan Studi Islam* 7, no. 1 (2026): 255–65, https://doi.org/10.55623/au.v7i1.627.

[8] Minerva Laisa Sabatini dkk., "Silencing Effect: Analisis Kekerasan Verbal Berbasis Gender Online Terhadap Partisipasi Politik Perempuan Di Platform TikTok," *Journal of Research and Development on Public Policy* 5, no. 1 (2026): 82–98, https://doi.org/10.58684/jarvic.v5i1.192.

the persistent influence of patriarchal culture in digital spaces. Their study also demonstrates that OGBV can produce a silencing effect that obstructs women's political participation. Within the context of electoral politics, studies conducted in several countries have also demonstrated the interconnectedness of gender-based violence, electoral regulations, and women's political participation. A study in Nigeria examined the impact of political gender-based violence on the political ambitions of young women.[9] Research in Mexico explored legislative approaches to gender-based violence in media and cyberspace.[10] Meanwhile, a study in Jordan examined the fulfillment of women's rights under electoral law,[11] whereas research in the United Kingdom investigated the use of women's and gender-related issues in political strategies ahead of elections.[12]

Regarding legal protection, previous studies have primarily focused on the normative construction and implementation of legal instruments for addressing OGBV. (Adkiras 2021)[13] examined the legal framework for protecting OGBV victims from a human rights perspective, whereas (Diputra 2024)[14] investigated the implementation of Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS) in addressing digitally mediated sexual violence in Indonesia.

Unlike those studies, this research does not merely frame OGBV as an issue of digital violence or examine the effectiveness of a single legal instrument in isolation; rather, it analyzes the interrelationships among three legal regimes: election law, special criminal law as embodied in the Law on Sexual Violence Crimes (UU TPKS), and cyber law through the Electronic Information and Transactions Act (UU ITE) and the Personal Data Protection Act (UU PDP). Specifically, this study identifies a doctrinal issue: the lack of integration between regulations on gender-based violence in election law and those on criminal offenses and data protection in cyberspace. This disconnect results in ambiguity regarding the Bawaslu's authority in handling reports of gender-based electoral violence (OGBV) related to electoral contests, as well as the lack of an established integrated referral and handling mechanism among election organizers, law enforcement agencies, and victim protection institutions. Thus, the contribution of this study lies in mapping the

[9] Sharimam Kwewum, "Electoral Act 2022, Time for Review? 'Not Worth the Risk': The Impact of Political Gender-Based Violence on Gen Z Women's Political Ambition in Nigeria," SSRN Scholarly Paper no. 5907862 (Social Science Research Network, 10 Desember 2025), https://doi.org/10.2139/ssrn.5907862.

[10] Fernanda Vidal-Correa, "Legislating Gender Justice: Contrasting Approaches to Media and Cyber Violence in Mexico's Congress," Journal of Gender-Based Violence, *Journal of Gender-Based Violence* 9, no. 4 (2025): 576–97, https://doi.org/10.1332/23986808Y2025D000000095.

[11] Saif Ziad Aljunidi dkk., "Negotiating Women's Rights in Jordanian Electoral Law: Are They Fulfilled?," *Legality: Jurnal Ilmiah Hukum* 33, no. 2 (2025): 648–71, https://doi.org/10.22219/ljih.v33i2.42184.

[12] Anna Sanders dan Francessca Gains, *Weaponizing women and gender: Party appeals to women voters ahead of the 2024 UK general election*, 77, no. 4 (2024): 686–712, https://doi.org/10.1093/pa/gsae021.

[13] Fadillah Adkiras, "Konstruksi Hukum Perlindungan Korban Kekerasan Berbasis Gender Online Menurut Hukum Hak Asasi Manusia," *Lex Renaissance* 6, no. 2 (2021): 376–90, https://doi.org/10.20885/JLR.vol6.iss2.art12.

[14] Setyawan Darma Diputra, "Tinjauan Yuridis Terhadap Penerapan Undang-Undang Tindak Pidana Kekerasan Seksual Dalam Kasus Kekerasan Berbasis Digital Di Indonesia," *Jurnal Legalitas* 2, no. 2 (2024): 83–92, https://doi.org/10.58819/jle.v2i2.168.

fragmentation across legal regimes while examining its consequences for access to reporting, handling, and redress for female legislative candidates who experience gender-based electoral violence during the 2024 elections.

Based on this gap, this study poses the following central question: Why has the existing legal framework failed to provide effective protection for female legislative candidates from OGBV during the 2024 General Election? This study argues that this failure to provide protection is not only due to weak law enforcement but is also rooted in the fragmentation of the various legal regimes governing this issue. To identify and evaluate this fragmentation, this study employs five analytical criteria. First, the consistency and scope of legal norms that is, assessing whether election law, special criminal law, and cyberlaw contain complementary provisions for recognizing and addressing OGBV in an electoral context. Second, the division of institutional authority that is, identifying the clarity or overlap of the authority of the Election Supervisory Agency (Bawaslu), the police, and related institutions in receiving and following up on OGBV reports. Third, reporting and handling procedures that is, assessing the interconnectivity of complaint mechanisms, reporting requirements, and case-handling processes among these three legal regimes, including obstacles arising from the nature of complaint-based offenses under the TPKS Law. Fourth, the availability of legal remedies and victim restitution, specifically evaluating the effectiveness of existing legal instruments in halting the spread of content, providing protection to victims, prosecuting perpetrators, and compensating for losses resulting from digital attacks during the election process. Fifth, interagency coordination, which involves assessing the existence of referral mechanisms, information exchange, and cooperation among election organizers, law enforcement agencies, relevant ministries, and victim service agencies. These five criteria are then used to identify how the lack of alignment among legal norms and the fragmentation of authority result in consequences such as unclear reporting channels, delays in handling cases, limited access to redress, and ineffective protection of women's political rights in the digital sphere. Through this framework, this study aims to map the fragmentation across legal regimes and explain its consequences for the protection of female legislative candidates, while also formulating a path toward harmonization to build a legal framework that is more coherent and responsive to women's political rights in electoral contests.

Research Method

This study employs a normative or doctrinal legal research method to examine the coherence of legal provisions regarding the protection of female legislative candidates from Online Gender-Based Violence (OGBV) during the 2024 General Election. The study focuses on examining positive legal norms, legal principles, and doctrines governing the protection of women, criminal acts of electronic-based sexual violence, the use of digital spaces, and the conduct of general elections. This method is used to identify fragmentation among legal regimes and analyze its consequences for the fulfillment of political rights and access to protection for female legislative candidates. The analysis focuses on the relationship between the electoral legal regime, special criminal law, and cyber law, particularly in terms of

the scope of regulations, the division of authority, reporting and handling mechanisms, and the availability of legal remedies and victim restitution.[15]

This study employs the statutory approach, the conceptual approach, and the case approach. The statutory approach involves compiling and analyzing the provisions of Law No. 7 of 2017 on General Elections, Law No. 12 of 2022 on Sexual Violence Crimes, Law No. 11 of 2008 on Electronic Information and Transactions along with its amendments, and Law No. 27 of 2022 on Personal Data Protection, as well as other relevant provisions. The analysis focuses on identifying the scope of legal norms, elements of criminal offenses, institutional authority, handling procedures, and forms of protection provided by each legal framework. A conceptual approach is employed to analyze the concepts of legal fragmentation, gender-based violence (GBV), women's constitutional political rights, the state's positive obligations, and due diligence as the basis for assessing the adequacy of legal protection. Meanwhile, a case-based approach was employed by examining incidents and findings regarding OGBV against women involved in political contests during the 2024 General Election, as documented in reports by election monitoring agencies, civil society organizations, and state institutions. This material is used to identify forms of violence, patterns of response, and barriers to protection relevant to the legal norms under analysis, rather than to conduct statistical measurements of the prevalence of OGBV.[16]

The research materials consist of primary legal sources, secondary legal sources, and tertiary sources. Primary legal sources include national laws and regulations governing elections, criminal acts of sexual violence, electronic information and transactions, and personal data protection, as well as international legal instruments ratified by Indonesia specifically the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and relevant interpretive documents. Secondary legal sources include books, scholarly journal articles, research findings, and expert opinions addressing legal fragmentation, gender-based violence in the digital sphere, women's political participation, and the state's obligation to provide protection. Tertiary sources, such as reports from the Indonesian Women's Coalition, the Westminster Foundation for Democracy in collaboration with the Women's Research Institute, the National Commission on Violence Against Women, and SAFEnet, were used as factual information sources to identify the characteristics and dynamics of gender-based online violence (OGBV) during the 2024 General Election. All of these materials were obtained through a literature review using techniques of searching, inventorying, selecting, and classifying based on their relevance to the research focus and analytical criteria.

The research data were analyzed qualitatively using legal interpretation and prescriptive-analytical reasoning. The analysis phase began by identifying the substance of the norms within each legal regime, then comparing their interrelationships and consistency to identify gaps, overlaps, or inconsistencies in the regulations. The results of this normative review were then linked to findings in reports from relevant institutions to assess the consequences of fragmentation on the division of institutional authority, access to reporting and handling mechanisms,

[15] Soerjono Soekanto, *Pengantar penelitian hukum* (Universitas Indonesia, 1981).

[16] Ahmad Rosidi dkk., *Metodologi Penelitian Hukum: Teori, Paradigma, dan Praktik Kontemporer* (CV. Edu Akademi, 2026).

the availability of legal remedies and redress, and inter-institutional coordination. This assessment was conducted using the principles of the protection of women's political rights, the state's positive obligations, and due diligence as benchmarks. Through this stage, the study not only maps the regulatory disconnects between legal regimes but also identifies the need for harmonizing norms and strengthening more integrated protection mechanisms for female legislative candidates who experience OGBV.[17]

Results

An Empirical Analysis of OGBV Regarding Female Legislative Candidates in the 2024 Elections

Online Gender-Based Violence (OGBV) against women in the political contest surrounding the 2024 General Election demonstrates that the digital space functions not only as a means of political communication but also as an arena for the reproduction of gender-based violence and discrimination. The scale of this issue is reflected in a survey by the Indonesian Women's Coalition (KPI) of 214 female legislative candidates, in which 84.1% of respondents stated they had experienced or witnessed GBV online during the 2024 election campaign. These findings highlight the high level of exposure to digital violence within the political sphere for women. This figure encompasses two categories of experience: victims who were directly attacked and respondents who witnessed violence against other women. Although these two categories cannot be equated with the prevalence of direct victims, the high proportion indicates that GBV online is not an isolated incident but rather a pervasive issue within the electoral competition that has the potential to undermine women's sense of safety as they engage in political activities.[18]

The documented forms of violence show that digital attacks against female legislative candidates have specific characteristics that differ from ordinary political criticism. These attacks include sexually suggestive comments on social media, account hacking accompanied by the dissemination of private content, threats to release intimate photos or videos, doxing, and the manipulation of images and digital recordings to damage a candidate's reputation. In addition, women are also targeted by narratives that question their leadership capacity, family background, social identity, and suitability for political office. These patterns were identified through research that combined analysis of conversations on Platform X with in-depth interviews and focused group discussions. The study collected 13,020 posts during the campaign period and 5,184 posts in the post-campaign period, then linked these digital conversation patterns to the experiences of female politicians. The analysis revealed that the predominance of neutral sentiment in digital conversations does not necessarily indicate the absence of violence. Instead, the interviews and focus groups revealed experiences of verbal harassment, sexual comments, attacks on reputation, and the spread of misleading information experienced by female politicians. The researchers explained this discrepancy through the concept of the "masking effect" a situation in which the low visibility of women in aggregate

[17] Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Prenada Media, 2017).
[18] Sweinstani dkk., "Online Gender-Based Violence in Indonesia's 2024 Elections."

political conversations obscures the existence and impact of gender-based attacks experienced by targeted women.[19]

These findings are supported by a 2025 report by the Westminster Foundation for Democracy (WFD) in collaboration with the Women's Research Institute (WRI) on violence against women in the 2024 Indonesian general election. This study employed a feminist participatory action research approach, combining a survey of 100 female politicians, focus group discussions involving 60 female politicians, in-depth interviews with 10 politicians, and a survey of 100 voters. Among its findings, WFD–WRI noted that 50% of the cases of verbal and emotional violence reported in the study occurred via online media. This finding is significant because it demonstrates that the digital space has become one of the primary arenas for violence against women in politics, rather than merely an additional medium for campaign communication. The report also documents the experiences of several female candidates who were targeted by manipulated photos and sexually suggestive memes, including content that objectifies women's bodies and clothing choices. A candidate identified by the pseudonym Mira, for example, experienced the spread of demeaning memes about her through digital group chats after she raised objections to content that harassed women. Another candidate, Vira, had a photo of her with her husband manipulated and accompanied by a discriminatory narrative intended to influence voters' choices. Meanwhile, a candidate using the pseudonym Lisa was the target of manipulated recordings of conversations that were edited to create the impression that she had made certain statements regarding the government and election organizers.[20]

This series of cases demonstrates that GBV in electoral contests is not merely aimed at attacking women's private lives, but is also used as a tool to undermine their political legitimacy and competitiveness. Attacks on physical appearance, marital status, social identity, and personal reputation shift the arena of competition from debates over ideas and leadership capacity toward judgments based on gender stereotypes. In this context, photo manipulation, the spread of disinformation, and sexual harassment have political dimensions because they can shape voters' perceptions, undermine candidates' credibility, and reduce the space available for women to articulate their ideas and build electoral support.

Overall, this empirical evidence reveals three key characteristics of OGBV targeting female legislative candidates in the 2024 elections. First, digital attacks are sexual and misogynistic in nature because they exploit women's bodies, private lives, and gender stereotypes to demean them. Second, these attacks have an electoral dimension because they target candidates' reputations, credibility, and acceptance among voters. Third, their impact is participatory in nature, as they create pressure that drives women to limit their digital activities, divert campaign resources to counter the attacks, and even reconsider the continuation of their political involvement. Therefore, cyberbullying against female legislative candidates must be understood as an issue directly related to the quality of equality in electoral competition and the protection of women's constitutional political rights. This situation also serves as the basis for assessing whether election law, special criminal

[19] Ibid

[20] Aripurnami dkk., "Violence against Women in Indonesia's 2024 Elections."

law, and cyberlaw have provided integrated protection against these various forms of digital attacks.

Multidimensional Impacts and Concrete Cases

The impact of GBV is multidimensional and affects political participation. A number of cases demonstrate tangible electoral consequences, in addition to psychological trauma and self-censorship. After experiencing GBV that escalated into direct violence, a female legislative candidate (referred to as Y) chose, during an event organized by the Indonesian Women's Coalition, to limit both her online and in-person campaigning. These restrictions affected her vote tally.[21] In another case, a female legislative candidate in Bandung Regency (known as CC) was humiliated in front of the team after party officials reported the perpetrator to party leadership. Her cell phone had been hacked several times, even before she gave her statement to the monitoring team.[22] In addition, there have been reports that female candidates from the NasDem Party in East Nusa Tenggara suddenly withdrew from the race after receiving a large number of votes. It is suspected that they withdrew due to gender-based pressure and violence they experienced.[23]

These findings indicate that online gender-based hate speech not only harms individuals but also creates a chilling effect and distorts electoral outcomes. Women who see or hear about victims' experiences become less open in both digital and physical spaces. Therefore, online gender-based hate speech functions as an informal mechanism that reduces women's political representation even though formal affirmative action quotas have been met.[24]

Existing Legal Framework

Indonesia has established several legal instruments that can potentially serve as a basis for protecting female legislative candidates from Online Gender-Based Violence (OGBV). First, Law No. 7 of 2017 on General Elections emphasizes the principles of equality, fairness, and non-discrimination in political competition.[25] Second, Article 14 of Law No. 12 of 2022 on Sexual Violence Crimes regulates electronically mediated sexual violence, including the non-consensual distribution of sexual content and threats to distribute such content.[26] Third, cyber-related legislation, particularly the Electronic Information and Transactions Law and Law No. 27 of 2022 on Personal Data Protection, provides legal grounds for addressing unlawful content, defamation, and violations of personal data protection.[27]

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[21] Aurel, *84 Persen Caleg Perempuan Jadi Korban KBGO di Pemilu 2024*.

[22] Ibid.

[23] Ammar Rizqianto, "Koalisi Perempuan Ungkap Kekerasan Berbasis Gender Saat Pemilu," detiknews, 2024, https://news.detik.com/berita/d-7406533/koalisi-perempuan-ungkap-kekerasan-berbasis-gender-saat-pemilu.

[24] Amalia Salabi, "KBGO di Pemilu 2024 Rugikan Partisipasi Perempuan," *Rumah Pemilu*, 23 Juni 2024, https://rumahpemilu.or.id/kbgo-di-pemilu-2024-rugikan-partisipasi-perempuan/.

[25] Undang-Undang Republik Indonesia Nomor 7 Tahun 2017 tentang Pemilihan Umum.

[26] Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual, art. 14.

[27] Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (as amended); Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi.

At the constitutional level, Articles 27(1), 28D(3), and 28I(2) of the 1945 Constitution of the Republic of Indonesia guarantee equal opportunities for all citizens to participate in government and protection against discriminatory treatment. The state's obligation to eliminate discrimination against women in political life was further reinforced through the ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) under Law No. 7 of 1984.[28]

Discussion

Analytical Framework: Legal Fragmentation and the State's Positive Obligations

The empirical findings presented above reveal a significant disparity between the effectiveness of legal protection in practice and the availability of existing legal instruments. Although Indonesia has established legal frameworks governing cyberspace, sexual violence, and electoral processes, female legislative candidates remain vulnerable to systematic digital attacks. This disparity is examined in this article through two principal analytical frameworks.

First, the concept of legal fragmentation. Legal fragmentation occurs when multiple legal regimes governing a particular issue operate independently, overlap, or undermine one another. Three distinct legal regimes govern OGBV against female legislative candidates: electoral law, special criminal law (the Sexual Violence Crimes Law), and cyber law (the Electronic Information and Transactions Law and the Personal Data Protection Law). This concept is employed to demonstrate that inconsistencies in normative design, rather than merely deficiencies in law enforcement, contribute to the failure of legal protection.

Second, the standards of due diligence and states' positive obligations under international human rights law are used to assess the adequacy of a state's actions in preventing and addressing gender-based violence against women. According to General Recommendation No. 35 of the CEDAW Committee, these obligations extend beyond the prohibition against state discrimination to include effective measures to prevent violence, thoroughly investigate alleged violations, provide protection to victims, and ensure access to redress.[29] In this study, these standards are operationalized through four indicators. First, the duty of prevention, which is assessed based on the existence of policies, education, detection mechanisms, and risk mitigation measures regarding GBV in the conduct of elections. In national law, this obligation is grounded, among other things, in Articles 71 and 72 of Law No. 39 of 1999 on Human Rights, which require the government to take effective measures to implement human rights, as well as Article 79 of No. 12 of 2022 on Criminal Acts of Sexual Violence (TPKS Law), which requires the central and local governments to implement prevention measures in a prompt, comprehensive, and integrated manner, including through information technology and institutional governance.

[28] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Undang-Undang Republik Indonesia Nomor 7 Tahun 1984.

[29] Komite CEDAW, General Recommendation No. 35 (2017) on gender-based violence against women; International Commission of Jurists, *Briefing Paper on Online Gender-Based Violence* (Geneva: ICJ, 2023).

Second, the obligation to investigate and enforce the law, which is assessed based on the availability of mechanisms for reporting, handling complaints, collecting electronic evidence, investigating, and prosecuting acts that constitute criminal offenses. These obligations must be carried out in accordance with criminal procedure law and relevant sectoral criminal provisions, including the Law on Electronic-Based Sexual Violence (TPKS) if the act meets the elements of electronic-based sexual violence as stipulated in Article 14. Third, the obligation to provide protection, which is assessed based on the availability of measures to prevent threats and repeated violence, maintain the confidentiality of the victim's identity, and protect the victim from actions by law enforcement officials that demean or hinder their political participation. The domestic legal basis for this is specifically found in Articles 66, 67, and 69 of the TPKS Law, which recognize the victim's right to assistance, protection, and recovery, including protection from the loss of political access. Fourth, the obligation to provide recovery, which is assessed based on the availability of medical, psychological, and social services; legal aid; restitution or compensation; and mechanisms for the removal of sexually explicit content. These obligations are regulated, among other places, in Articles 68 and 70 of the TPKS Law. Additionally, for cases involving the disclosure or misuse of personal data, Articles 65 and 67 of Law No. 27 of 2022 on Personal Data Protection may serve as the basis for prohibitions and criminal liability in accordance with the elements of the offense.

Distinguishing between these two layers of norms is crucial in applying the analytical framework. General Recommendation No. 35 constitutes the CEDAW Committee's authoritative interpretation of states' obligations under the Convention and thus serves as an international standard for assessing the adequacy of state actions. Meanwhile, provisions in Indonesian laws and regulations form the domestic legal basis for fulfilling obligations, defining institutional authority, and ensuring victims' rights are met. Therefore, this study does not assume that all forms of gender-based violence against women can be directly prosecuted under the Law on the Prevention and Eradication of Violence Against Women (UU TPKS), but rather examines whether the nature of the act aligns with the elements of a criminal offense as defined in relevant laws. Through these four indicators, the due diligence standard is used to assess whether the legal framework and institutional measures in Indonesia have provided effective prevention, investigation, protection, and redress for female legislative candidates who have experienced OGBV.

These two analytical frameworks are employed in this study to systematically demonstrate how the division among three legal regimes results in an inadequate legal protection framework for female legislative candidates during the 2024 General Election. Through this mapping, the study addresses a limitation in previous research, which has generally examined OGBV as a broad phenomenon or evaluated individual legislative instruments in isolation, rather than examining the interaction among the relevant legal regimes.

Fragmentation Across Legal Systems

First, the electoral legal regime, through Law No. 7 of 2017 on General Elections, does not explicitly recognize OGBV as a form of gender-based political violence or as a violation occurring during electoral processes. Consequently, complaints concerning OGBV arising during campaign monitoring cannot be adequately addressed by the General Elections Supervisory Agency (Bawaslu), as

there is no clear legal basis establishing its authority to handle such cases. Such complaints are often left unprocessed or referred to the general criminal justice system on the grounds that they fall outside the scope of electoral supervision.[30]

Second, the special criminal law regime, through Article 14 of Law No. 12 of 2022 on Sexual Violence Crimes, establishes complaint-based offenses for certain forms of electronically mediated sexual violence, subject to exceptions where the victim is a child or a person with a disability.[31] The time-sensitive nature of electoral processes, which operate within strict deadlines, creates a tension with the complaint-based nature of these offenses. Many female legislative candidates who experience such violence are deterred from reporting it due to pressure, stigma, and the potential for political retaliation. When complaints are only brought forward after the campaign period has ended, the resulting electoral harm can no longer be remedied. The complaint-based nature of these offenses therefore places an additional burden on victims, ultimately limiting the protection available to them throughout the electoral process.

Third, the cyber law regime, particularly the Electronic Information and Transactions Law (ITE Law) and the Personal Data Protection Law (PDP Law), primarily focuses on regulating unlawful content and safeguarding personal data. While the ITE Law is more frequently invoked in cases involving defamation and hate speech, gender-sensitive considerations and the political dimensions of violence are rarely incorporated into its enforcement practices. Although the PDP Law provides protection for personal data, it was not specifically designed to address systematic gender-based attacks that undermine women's electoral viability and reputations.[32]

The Consequences of Fragmentation for Protection

The fragmentation of these three legal regimes produces mutually reinforcing consequences. Victims are confronted with uncertainty regarding the appropriate reporting channels: whether they should file complaints with Bawaslu, the police, or digital platforms. Each institution operates under a different mandate, resulting in weak coordination and reactive, delayed responses.[33] None of these systems, individually or collectively, provides an effective mechanism to promptly halt the dissemination of harmful content, protect victims, and impose sanctions that adequately address the electoral context.

Accordingly, the failure of legal protection is not merely a consequence of inadequate law enforcement but also stems from an inconsistent normative structure. Women's political rights in the digital sphere remain inadequately

[30] Undang-Undang Republik Indonesia Nomor 7 Tahun 2017 tentang Pemilihan Umum; SAFENet, "Siaran Pers: Pemilu 2024 Memperburuk Situasi Hak-Hak Digital Selama 2023," February 15, 2024, https://safenet.or.id/siaran-pers-safenet-pemilu-2024-memperburuk-situasi-hak-hak-digital-selama-2023/.

[31] Undang-Undang Republik Indonesia Nomor 12 Tahun 2022 tentang Tindak Pidana Kekerasan Seksual, art. 14.

[32] Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (as amended); Undang-Undang Republik Indonesia Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi.

[33] Aripurnami dkk., "Violence against Women in Indonesia's 2024 Elections."

guaranteed because existing legal norms do not operate in a mutually supportive manner and, in certain circumstances, even undermine one another.

Implications for Constitutional Political Rights

Such legal fragmentation threatens women's constitutionally guaranteed political rights and should not be regarded merely as a technical legislative problem. Articles 27(1), 28D(3), and 28I(2) of the 1945 Constitution of the Republic of Indonesia not only guarantee the formal right to be elected and to be free from discrimination but also require the state to establish conditions that enable these rights to be exercised effectively.[34] When the state allows a fragmented and incoherent legal framework to persist, constitutional protection becomes ineffective.

Under international human rights law, particularly CEDAW, the state has a due diligence obligation to prevent gender-based violence, protect victims, prosecute perpetrators, and provide effective remedies.[35] This obligation is active rather than passive. As long as the state fails to take adequate and reasonable measures to prevent and respond to such violence, it cannot evade responsibility on the grounds that the violence was perpetrated by non-state actors, including individuals or anonymous groups operating on the internet. Legal fragmentation demonstrates the state's failure to meet this standard. Structural inaction is reflected in unclear reporting mechanisms, complaint-based offenses that place an excessive burden on victims, and the absence of electoral-specific protection mechanisms. Consequently, women's political rights in the digital sphere are violated not only by individual perpetrators but also by a state legal system that fails to provide them with adequate protection.

At the systemic level, this situation results in a distortion of electoral democracy. Women face additional challenges that their male counterparts do not experience to the same extent, as they already occupy structurally subordinate positions in social and political spheres. The quality of political representation and the legitimacy of electoral outcomes are undermined when certain citizens are systematically prevented from participating fully in the electoral process.

Directions for Harmonizing and Strengthening the Legal Framework

Targeted and operational measures are necessary to address legal fragmentation through a more coherent legal framework. First, electoral legislation should explicitly define OGBV as a form of gender-based political violence and a violation of electoral regulations. This objective could be achieved through limited amendments to the General Elections Law or through regulations issued by the General Elections Commission (KPU) and the General Elections Supervisory Agency (Bawaslu), thereby granting these institutions the authority to monitor and address OGBV during the campaign period.[36]

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[34] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, arts. 27(1), 28D(3), and 28I(2).

[35] Komite CEDAW, General Recommendation No. 35 (2017) on gender-based violence against women; International Commission of Jurists, *Briefing Paper on Online Gender-Based Violence* (Geneva: ICJ, 2023).

[36] Ollivia Chadidjah Salampessy dkk., "Komisi Nasional Anti Kekerasan Terhadap Perempuan, Membangun Pemilu Nirkekerasan Berbasis Gender: Sebuah Panduan Pemantauan," Jakarta, 2023, https://komnasperempuan.go.id/pengembangan-pengetahuan-detail/membangun-pemilu-nirkekerasan-berbasis-gender-sebuah-panduan-pemantauan.

Second, an integrated reporting and response mechanism should be established involving Bawaslu, the police, the Ministry of Communication and Digital Affairs, and victim support service institutions. This mechanism should incorporate a single reporting channel directly connected to procedures for requesting content removal from digital platforms, thereby enabling the rapid suspension of further content dissemination.

Third, Article 14 of the Sexual Violence Crimes Law should be specifically reviewed, particularly its provisions concerning complaint-based offenses (complaint-based offense). Strict complaint requirements may impede access to justice because female legislative candidates frequently face political and social pressure that discourages them from reporting incidents of violence. Accordingly, consideration should be given to introducing exceptions or more responsive reporting procedures during electoral periods.

Fourth, more stringent obligations should be imposed on digital platforms to ensure prompt responses to OGBV content targeting female legislative candidates, including through cooperation with electoral authorities and law enforcement agencies.

These measures do not necessarily require the enactment of an entirely new law. Rather, protecting women's political rights in the digital sphere requires the harmonization of existing legal frameworks and the strengthening of instruments already in place.

Conclusion

This study demonstrates that the failure to protect female legislative candidates from OGBV during the 2024 General Election stems from an incoherent and fragmented legal framework, rather than merely from inadequate law enforcement. Electoral law, cyber law, and special criminal law operate independently, without sufficient coordination or integration.

Consequently, such fragmentation undermines women's political rights as guaranteed by the 1945 Constitution of the Republic of Indonesia and reinforced by the state's due diligence obligations under CEDAW. This situation is further exacerbated by uncertainty regarding appropriate reporting channels and inadequate inter-agency coordination. When the state allows an incoherent legal framework to persist, constitutional guarantees become ineffective, thereby undermining the integrity of electoral democracy.

Accordingly, harmonization across the relevant legal regimes can be pursued by explicitly incorporating OGBV into electoral regulations, establishing an integrated reporting mechanism, reassessing the application of complaint-based offenses within the electoral context, and strengthening the obligations of digital platforms. Without such measures, women's political rights in the digital sphere will remain under threat.

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