



## Legal studies Women's political representation in the regional people's representative council based on law number 7 of 2017 concerning elections in Indonesia

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### ABSTRACT

Women and men have the same position in politics, Women's involvement has the significance of participating in parliament in the process of policy-making and development participation as well as to enrich the perspectives and experiences that shape public policy. The purpose of this study is to find out how women are represented in political affairs in legislative elections in Indonesia. The method used in this study is a normative research method with a statute approach and a conceptual approach in a qualitative descriptive analysis, the data used in this study is sourced from primary legal materials, secondary legal materials and library research results from various references. The results of the study show that women's representation is increasing, in line with expectations for existing policies on women's representation because there are many issues related to women that require women's representation in legislative institutions. Law Number 7 of 2017 concerning General Elections has expressly stipulated that every political party is obliged to nominate at least 30% of women.

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### 1. Introduction

Indonesia is a democratic country based on the supremacy of law. All things are regulated by law, including the democratic process in Indonesia (Rohman, 2020). The Unitary State of the Republic of Indonesia adheres to a democratic system, namely a form or system of government in which all people can participate in government through representatives or interpreted as people's government (Firzhal Arzhi Jiwantara, 2022). In a democratic country, the people have an important role because the highest sovereignty lies in the hands of the people. (S. Insiyah, X. Nugraha, 2019). And in a country based on law, all state institutions are guided by the authority that originates from the law (Hasanah & Parasatya, 2019). According to Asshiddiqie, as a democratic country, at least two absolute conditions must be met, namely the existence of a democratic constitution and respect for human rights, which specifically include the rights of citizens (J. Asshiddiqie, 2008). Democracy is a political system based on the principle of

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popular sovereignty, in which citizens have guaranteed rights (Utomo, 2023). Every individual has freedom in his personal space, while the government is limited. The power of the majority must not oppress the rights of the minority (Sari, TP, & Desiandri, 2023).

See As a state based on law, Indonesia also regulates human rights as stated in the 1945 Constitution of the Republic of Indonesia. The government has implemented strict regulations regarding human rights (Mardiana Parihin, 2023). Where Human Rights (HAM) are human rights that every person has since birth. Human Rights are a set of rights inherent in the nature and existence of humans as creatures of the Almighty God and are His gifts that must be respected, upheld and protected by the rule of law, government and every person, for the honor and protection of human dignity. The existence of Human Rights makes humans have the same position in the eyes of the law (equality before the law).

John Locke explained that Human Rights are rights that are directly given by God Almighty to humans as natural rights, therefore there is no power in the world that can revoke them, these Human Rights are fundamental or basic to human life and are essentially very sacred. According to Murdadlo Murhahari, (Murtadlo Murhahari, 1995) Women's Human Rights are one of the instruments that must be upheld because from various studies related to women it is very clear that more women experience discrimination and violence than men. Meanwhile, Sugihastuti and Itsna Hadi Saptiawan (Sugihastuti and Itsna Hadi Saptiawan, 2007). In addition, there is a factor of gender inequality that makes it necessary to enforce Women's Human Rights. Gender inequality is the difference in roles and rights of women and men in society that places women in a lower status than men.

It can be said that there must be gender equality in the election process. Currently, women should not be underestimated because they also have the capacity and expertise to win the right to vote and The momentum of the transfer of sovereignty from the people to the people's representatives is commonly called political contestation which is carried out through general elections (Good Luck & Fortune, 2021). Per the current problem is the paradigm and belief that women's nature is only to take care of the family and women are not suitable to occupy leadership positions. This cannot happen in a democratic country because Article 27 paragraph 1 of the 1945 Constitution (UUD 1945) states that the principle of equal rights for all citizens is recognized without exception.

In the general election system, political parties, legislative body member elections, and executive and judicial appointment systems must make women's representation in accordance with the requirements determined based on Law Number 7 of 2017 concerning general elections in article 10 paragraph 7 stating "The composition of KPU membership, Provincial KPU membership, and Regency/City KPU membership pays attention to women's representation of at least 30% (Thirty percent). Today, various efforts have been made to make women's existence more taken into account, including their existence in government.

Based on the latest General Election Law, namely Law Number 7 of 2017 concerning General Elections, Article 173 paragraph (2) letter e explains that: include at least 30 percent (thirty percent) of women's representation in the management of political parties at the central level for the general election of members of the DPR, Provincial DPRD or Regency / City DPRD. The policy of women's representation in party management provides space for women to continue to compete in obtaining the people's mandate in parliament, of course there must be efforts made for women themselves so that they are stimulated to be actively involved in the political world which has been accommodated by law through political parties in order to be able to increase women's representation in parliament, of course to increase this representation must begin with increasing and strengthening political participation among women.

Women's involvement in politics has great significance in improving the welfare of women's groups, both through representation, supervision and influence on the agenda and policy-making process, as well as participation in development (Pasaribu, 2023). Women's involvement

in politics is indeed significant because it gives voice and representation to this important half of the population. When women have equal access to political decision-making, they can advocate for interests and issues that are particularly relevant to women's well-being. Women's representation in political institutions is not only important for ensuring gender equity directly, but also for enriching the perspectives and experiences that shape public policy.

Pada at present, although various legal instruments have legitimized political participation for women in the election law number 7 of 2017. Until now, women and politics are still things that are not easy to link one to another (Mukarom, 2008). On the one hand, Indonesian women are required to play a role in all sectors to contribute to development, on the other hand, there is a demand that Indonesian women not forget their nature as women. The dilemma faced by women is experienced by Indonesian women who have careers in politics. Women with careers feel called to dedicate their talents and skills to the development of the nation and state. In addition, women are often haunted by the opinion in society that women must serve their families (Hadis, Liza., & Eddyono, 2005).

PenPrevious research has been reviewed with the title of women's participation in the 2014 legislative elections by Vandyk Lumiu where in previous research only reviewed elements of participation that had taken place while in this writing the author will review focused on efforts to encourage women's participation in general elections so as to increase women's representation in parliament and describe women's participation in general elections for several periods in the implementation of general elections in Indonesia.

PenPrevious studies (Astuti et al., n.d.; Artina, 2016; Priandi & Roisah, 2019), show that despite the 30% quota policy for women in politics in Indonesia, there are still challenges in achieving proportional representation in parliament and in regional head elections. The study highlights the importance of concrete efforts to increase women's political participation through advocacy, political education, providing equal opportunities, and better understanding of political rights. Factors such as education, economic independence, and changes in patriarchal culture also play an important role in increasing women's political participation. Awareness of the importance of women's roles in politics and the implementation of affirmative policies such as women's quotas are key to achieving better gender equality and more inclusive political decisions in Indonesia (Astuti, P., Afandi, MA, & Listyanti, nd).

The issue of gender equality in politics is very important because it tends to occur male dominance in it, which results in women often being in a lower position compared to men. Equality between women and men should be a concern in all areas of life, including in bureaucracy. This is because one of the elaborations of the principles of human rights and democracy is the issue of gender equality in bureaucracy (Rindani, 2022). Although various legal regulations have recognized women's political participation, such as the Election Law Number 7 of 2017, the relationship between women and politics is still difficult to fulfill. Indonesian women are faced with a dilemma. On the one hand, they are pressured to be active in all fields as a contribution to development, but on the other hand, they are also faced with expectations to fulfill traditional roles as women. This causes difficulties for women who have careers in politics, because they feel responsible for using their talents and skills for the progress of the nation and state, but also often have to deal with the view that women should prioritize their roles in the family.

Although regulations such as Law No. 7/2017 on Elections have set a 30% quota for women's representation, the implementation of this policy still faces various challenges. Previous research has mostly focused on describing women's participation in politics without delving into the systematic efforts needed to overcome structural barriers, such as patriarchal culture, limited access to political education, and economics. In addition, not many studies have specifically analyzed the impact of these policies on increasing women's representation in parliament in the long term. This research fills the gap by exploring the factors that influence

women's representation in the legislature, as well as evaluating the effectiveness of affirmative action policies and electoral systems on the sustainability of women's involvement in politics.

## 2. Method

The research method used is normative legal research (Dr. Muhaimin, SH, 2020) Legal research by examining library materials or secondary data alone can be called normative legal research or library legal research. Using a statute approach and a conceptual approach. (Dr. H. Ishaq, 2017) As for the analysis, it uses qualitative descriptive analysis, with legal materials originating from primary, secondary and tertiary legal materials.

## 3. Analysis and Results

Democracy certainly cannot be separated from human rights, which are then explained in Article 28D paragraph (3) which states that: "Every citizen has the right to receive equal opportunities in government," and The guarantee of equal status for men and women, especially in the fields of government and law, is also contained in the 1945 Constitution, 17 August 1945, Article 27 paragraph (1), which states that: "All citizens have equal status before the law and government and are obliged to uphold the law and government without exception" (Artina, 2016).

The realization of equal opportunities is what needs to be maintained so that political parties can maximize the representation of 30% of women in parliament. In politics in Indonesia, this is very important in efforts to increase women's political participation. This is an opportunity for women to express not only their interests and needs, but also various policies for the realization of women's rights in full in the future (Soerdawo, VS Darvina, N. Zuriah, G. Yumitro, 2019).

Herbert McClosky argues that political participation is the voluntary activities of citizens through which they take part in the process of electing rulers, and directly or indirectly, in the process of forming general policies (A. Nurcahyo, 2016). Miriam Budiardjo further said that participation is an activity of a person or group of people to actively participate in political life, including by choosing the country's leaders and directly or indirectly influencing government policies (public policy) (R. Singestecia, E. Handoyo, 2018). Samuel P. Huntington and Joan M. Nelson give an explicit interpretation, political participation is the activity of citizens acting as individuals who intend to influence government decision making (R. Singestecia, E. Handoyo, 2018).

Petalk about women's political representation cannot be dilefit from women's political participation in general. Indonesia has ratified two conventions related to women's political participation. Before ratifying The Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW), Indonesia had ratified the Convention on Political Rights of Women on December 12, 1958. One of the appeals of CEDAW is to eliminate all forms of discrimination against women by taking affirmative action (N. Kurniawan, 2014). Affirmative action is a special action of correction and compensation from the state for gender injustice so far. This is stated in Article 4 of CEDAW, which reads: "The adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention and shall in no way entail as a consequence the maintenance of unequal or separate norms. These measures shall be discontinued when the objective of equality of opportunity and treatment has been achieved."

With By ratifying the two conventions, it means that the Indonesian Government has an obligation to implement every part of the articles of the two conventions to the maximum, especially those related to efforts to increase women's involvement in politics, but the current political reality shows that the level of women's political participation in Indonesia is still relatively low. This reality has indirectly 'harmed' women. The Center for Asia Pacific Women

in Politics notes two main factors, namely: the influence of the still-rooted traditional gender roles and divisions between men and women that limit or hinder women's participation in leadership and policy or decision-making and strong institutional constraints on women's access to power spread across various socio-political institutions, including the type of election system (D. Artina, 2016).

The regulation on the 30% quota for women's representation which aims to increase the number of women sitting in legislative institutions has been regulated in several laws related to elections (Wahyudi, 2018). Regulations regarding women's affirmation in elections are regulated in Article 173 Paragraph 2(e) of Law Number 7 of 2017 concerning General Elections (Election Law), which reads, "Political Parties can become Election Participants after fulfilling the requirements, including 30% (thirty percent) female representation in the management of political parties at the central level ". Then also in Article 2 Paragraph 2 of Law Number 2 of 2011 concerning Political Parties (Political Party Law), which reads, "The establishment and formation of Political Parties as referred to in paragraph (1) includes 30% (thirty per hundred) female representation".

To then further regulated in the recruitment of prospective candidates for members of the People's Representative Council, Regional People's Representative Council, in Article 29 Paragraph 1(b) of the Political Party Law, which reads "Recruitment as referred to in paragraph (1) letter b is carried out through democratic selection in accordance with the Articles of Association and Bylaws by considering at least 30% female representation. Article 248 Paragraph 3 of the Election Law states that, "The Regency KPU verifies the completeness and accuracy of the administrative requirements documents for prospective candidates for members of the Regency DPRD and verifies the fulfillment of the number of prospective candidates of at least 30% (thirty percent) female representation". Furthermore, it is also regulated in Article 249 paragraph (2), "In the event that the list of prospective candidates does not contain at least 30% (thirty percent) female representation, the KPU, Provincial KPU, and Regency/City KPU provide an opportunity for political parties to improve the list of prospective candidates".

In more detail, the General Election Commission (KPU) has issued KPU Regulation Number 10 of 2023 concerning the Nomination of Members of the DPR, Provincial DPRD and Regency/City DPRD. Article 8 paragraph (1) states that the list of Prospective Candidates must contain at least 30% female representation in each Electoral District, and every 3 (three) Prospective Candidates in the list of Prospective Candidates must contain at least 1 (one) female Prospective Candidate. Furthermore, paragraph (2) continues, "In the case of calculating 30% (thirty percent) of the number of female Prospective Candidates in each Electoral District produces a fractional number, then if the two decimal places behind the comma are: less than 50 (fifty), the calculation result is rounded down, or 50 (fifty) or more, the calculation result is rounded up."

The norms of the articles above show that 30% female representation is an obligation for all political parties in nominating members of the Regency DPRD. This regulation is expected to increase the number of DPRD members in the future, so that women's rights that have been left behind in the political arena can be gradually improved.

One form of affirmative action is the provision of a certain number of quotas for women. The core idea behind the quota system is to recruit women to enter political positions and ensure that women are not just a few "tokens" in political life. The quota for women is a certain number or percentage of the members of a body, whether it is a list of candidates (legislative candidates/legislative candidates), a parliamentary assembly, a committee, or a government. This policy aims to ensure that women are, at the very least, a "critical minority" consisting of 30% or 40%. One important thing is that this quota is only applied as a temporary measure. If the structural barriers to women's entry into politics have been removed, then the quota will no longer need to be applied. This is inseparable from the basic considerations for implementing

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the quota itself, namely that women are far behind in their "start" when entering the world of politics compared to men.

Oleh therefore, quotas are no longer needed when both are on the same starting line. However, affirmative action in the formulation of the legislative election law with the inclusion of a 30% quota for women to sit in the DPR, has become an interesting topic of discourse since the issuance of Constitutional Court Decision Number 22-24/PUU-VI/2008 which adopted the majority vote system. On the one hand, the consideration of the Constitutional Court decision stated that affirmative action in Law Number 10 of 2008 contained in Article 55 paragraph (2) is seen as reverse discrimination, so it cannot be declared contrary to the constitution, but on the other hand, the implementation of the majority vote system is considered by many parties to be able to reduce affirmative efforts in order to increase the number of women's representation in parliament.

Even though in the end, this Constitutional Court Decision was then adopted into Law Number 8 of 2012 concerning the General Election of Members of the DPR, DPD, and DPRD, which also adopts a majority vote system, making it interesting to analyze in more depth, how affirmative action should be implemented according to the 1945 Constitution and what are the implications of implementing a majority vote system in legislative elections for women's representation rights in the DPR.

#### 4. Conclusion

Women have the same role and position as men in politics. Women's participation is very important in the world of politics, because many issues related to women require women's representation in legislative institutions. Law Number 7 of 2017 concerning General Elections has expressly regulated that every political party is required to nominate at least 30% of women.

This research contributes to the theory of political representation by revealing the factors that influence the success of gender quota policies in Indonesia's electoral system. The results emphasize the importance of synergy between legal regulations and efforts to empower women in increasing their political participation.

The results of this study can serve as a reference for policymakers in designing strategies to ensure more effective implementation of affirmative policies. The research also provides practical insights for political parties and civil society organizations to develop programs that support women's empowerment through political education and leadership training.

Future researchers can analyze the impact of affirmation policies on improving the quality of women's representation in parliament and explore innovative approaches, such as educational technology, to strengthen women's political awareness in rural areas.

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