

The Representativeness of Women in Parliament as the Realization of Gender Equality Principle in Human Rights Perspective

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ABSTRACT

Gender equality has been a tough struggle for women in creating a global commitment to respect human rights. The gender gap is very difficult, particularly in developing countries. The gaps exist in various aspects including in political, legal, economic, and social which become the cause of low level of women's participation and relatively not raise its function as an equal competitor compared with men as well as social constructions that have significant influence on gender inequality. Gender equality is a worldwide movement as a reflection of injustice against women. There is stereotype or negative labeling that views women less than men. A lot of myths and beliefs that cause women often only seen from the aspect of mere sex, instead of ability, opportunity and humanity, that a woman is also a man of understanding, reason and feeling, who has an equality before the law. Gender equality is an indicator that the gender issues do not receive special attention in various fields of development, so that the central government set a political policies that open up opportunities for women in Indonesia's development, including the development of a gender-minded politics. In the political field, the determination of 30% target representation (quota) for women in the nomination of Parliament members both in central and regional government that aims to determine the relationship between the representation of women in parliament in the strategic decision-making process for public. It is intended to see whether the affirmative policies will be effective and not a mere formality. This will become a challenge for the strategic issues in parliament, although the participation of every member of the council opened democratically in every strategic decision making. Related to this, the increase in the number of women's representation in parliament should always be pursued, so that its presence can provide a strong influence in the strategic decision-making.

Keywords: Women's Representation, affirmative policy, gender equality

1. INTRODUCTION

Article 1 (3) of the Constitution of the Republic of Indonesia Year 1945 states that "the State of Indonesia is a State of Law". Which means that Indonesia is the state that uphold the supremacy of the law to uphold truth and justice and there is no power which is not accounted for. Based on this description, a State of Law is a country that stands above the law that guarantees justice to its citizens. Justice is a prerequisite for the creation of the joy of life for citizens, and as the basis of the justice that needs teach a sense of decency to every man to become a good citizen. Similarly, the actual laws only exist if the laws reflect justice for the live interaction among citizens.¹

In general, in every country who follow the principle of a country of law, there is always an enactment of three basic principles, namely the supremacy of law, the equality before the law, and the due process of law. The most important principle of state law is equal protection or

equality before the law. Discriminations are not allowed, such as differences in skin color, gender, religion and belief, certain sects in religion, or the difference in status as between landlords and poor farmers. Nevertheless, discriminations still occur in various countries in the world, even in developed countries.²

The equality before the law prevails, in which everyone must submit to the law, and no one is above the law above the law.³ Gender differences actually does not cause problems when it does not create gender inequality, either in the form of marginalization (economic impoverishment), which considers the subordination of women for having an emotional nature that is not considered appropriate to appear as a party leader or manager, stereotype (negative labeling), for example, every work performed by women assessed only as an complementary role, the other example is violence towards women and

¹Moh. Kusnardi dan Harmaily Ibrahim, *Hukum Tata Negara Indonesia*, Sinar Bakti, Jakarta 1988, hlm., 153.

² Munir Fuady, *Teori Negara Hukum Modern (Rechtstaat)*, Refika Aditama, Bandung 2009, hlm., 207

³*Ibid.*, hlm., 3

also the assumption that the gender roles of women is only managing household.⁴

Some issues of gender inequality that still occur in Indonesia

- Inequality in the levels of education.
- Access gap to Productive Resources
- Inequality of Political Participation

2. DISCUSSION

2.1 Gender Equality

Gender equality is an implementation strategy to integrate gender protection of gender rights in legislation, policies, programs, activities and budget. Starting from the planning, preparation, execution, monitoring, and evaluation of the principle of the best interests of gender equality. The introduction of children rights equality concept (PUHA) is very important for the community as well as the dissemination of Gender equality concept as an education for the community because they will understand which rights are owned by women and how to treat them properly.

Equality is a major joint of democracy because it guarantees access and opportunity for all elements of society. Not achieving the ideals of democracy is often triggered by discriminatory treatment of those who are dominant both structurally and culturally. This discriminatory treatment is a logical consequence of a bias and asymmetric position in social relations. Discriminatory treatment and inequality can lead to loss of life and lower welfare for those who are marginalized and subordinated.

Until now, discrimination based on gender still can be found around the world, including in countries where democracy has been considered achieved. As Indonesia's independence is a guarantee for the democratization process as set forth in the Constitution of 1945, which includes equal rights for all Indonesian people, both men and women. However, gender-based equality is often hindered by a variety of interests which results on the subordination of women to benefit politically and culturally.

Policies that can be taken to achieve equal access to quality education and gender for all boys and girls is to improve the level of literacy of adult population, especially female population through improving the performance of education at every level, either through school or outside of school, education equality and functional literacy education for the adult population and improve education institutions in managing and promoting gender-minded education. Policy strategy was implemented through five main strategies, namely: providing access to quality education,

especially primary education should be arranged equal for boys and girls through education at schools and non-formal education; providing equality of access to education for older people who cannot attend school; improving education literacy services to increase the degree of literacy, especially for female population; improve coordination, information, and education in order to proliferate and spread gender-minded education; and institutional development of educational institutions both at national and local levels regarding gender-minded education.

Keep in mind that Indonesia has ratified the Convention on Civil Rights and Politics (2005), in which already guarantees the existence of two fundamental democratic rights for women, namely the right to vote and the right to stand for electionns. For example, that a low level of female representation in the legislature is a violation of fundamental democratic rights of women, which means it is their basic rights. Political rights as well as individual participation in the formation of public opinion, both in the selection of their representatives in the assemblies. According to him, political rights include the right to express an opinion; right to be nominated as the member of the legislature, and the right to be nominated as presidential candidate and other things that contain fellowship and delivery relating to political opinion. In addition to the background and the decision of the Court, the other factor is the issue of recruitment conducted by the political parties are quite difficult for the candidate. It is at least reflected in the 2004-2009 election results as presented by Anik Amikawati.⁵ According to her, the failure of women's quota of 30% in Central Java Provincial Parliament 1999-2004 and 2004-2009 were not caused by the absence of female candidates who met the qualification, but in addition to the lack of willingness of the political parttie's elite to put women on the nomination and their indecision towards the regulation set on 30% representation of women in parliament is fundamental. The main challenge lies on the recruitment process, in which political parties recruited their women candidates randomly, mostly without definitive consideration and aiming only to meet the quota, and is not done with the correct mechanism in the sense of attention to ability, stature in the community, integrity and other objective things.

Political parties tend to choose a candidate who already has an innate advantage rather than

⁴Dr. Mansour Fakh. 1997 dalam lin Kandedes, S. Hum: Jurnal Melati 2004:35-36.

⁵Anik Amikawati, 2008, *Analisis Gender Pada Kinerja Dprd Provinsi Jawa Tengah Periode 2004 – 2009 (Studi Kasus Pelaksanaan Program DPRD Provinsi Jawa Tengah pada Bidang Sosial Khususnya Pemberdayaan Perempuan)*, Tesis Pascasarjana, Universitas Diponegoro Program Studi Magister Ilmu Administrasi Konsentrasi Magister Administrasi Publik.

having to comply with the quota. The innate superiority for example, a candidate who comes from artists who have had fans, religious leaders have followers or large businesses that have large funds, a former soldier who still has the remnants of power and so forth. Although in the legislative elections of Central Java Provincial Parliament in 2009 there is still a tendency to use celebrities/public figure to gain votes, but there had also been political leaders who put forward the feasibility and quality aspects in terms of its ability to prioritize, stature, and good morals approach.

3.2 Affirmative Policy

The struggle of women activists in persuading countries to implement the UN CEDAW appeal to the countries that signed the Convention, including Indonesia, has recently received serious attention from the Indonesian parliament in the reform era. One of the appeals of the UN CEDAW to eliminate all forms of discrimination against women is the affirmative action. Affirmative action is a special act of correction and compensation from the state for gender injustice against women during this era.⁶ Article 4 of the UN CEDAW, states that "affirmative action is a temporary special measures undertaken to achieve equality of opportunity and treatment between men and women". The initial meaning was legal and policy requiring the wearing of certain groups of compensation in the form of privilege in certain cases in order to achieve proportional representation in a variety of institutions and jobs. This affirmative action is also positive discrimination. One is the establishment of affirmative action quotas sistem at least 30% in the policy-making institutions of the state.

Because of the persistent struggle of coalition activists and a coalition of women's in parliament, during the flowering of democracy and openness in this reform era, in managerial implementation of affirmative action, the representation of women in parliament and political parties have managed to formally promulgated in Article 65 of Election Law No. 12 in 2003. In the provisions of Article; paragraph (1) and (2), which is known as "quotas" for women state that:

(1) Each political party can nominate candidates for election as well as members of Parliament, Provincial and District / City for each

electoral district, having regard to the representation of women at least 30 percent;

(2) Any political parties can nominate candidates for a maximum of 120 percent of the number of seats assigned to each constituency.

The implementation of 30% quota policy in the House of Representatives (Regional) has so far not been able to run properly. For instance, reflected in portraits of women's representation in Central Java Province Parliament, which is only 15%. The reality is still better when compared with the results of the 1999 election, which only reached 5%. The challenge that emerged was not only internally of female politicians such as the quality of human resources and experience as a politician, but also from external factors such as the culture of patriarchy that has implications for the low quantity of women in the political sphere. The above phenomenon, seen from the perspective of global politics reveal a similar trend in many parts of the world. Women all over the world in every socio-political area find themselves underrepresented in the legislature and away from being involved in decision-making. While the political playing field in each country has its own special character, but there is a general description that remains for all of it, that there is an imbalance and the atmosphere is not conducive to women's participation. Women who want to enter the world of politics, find the fact that the political environment, public, cultural and social are often unfriendly or even hostile to them. Even at glance, the composition of political decisions making are now, in various regions, provide evidence that women still face a number of obstacles in articulating and determining interests.⁷

In the history of politics in Indonesia and developing countries in general, women are seen late in his involvement in politics. The stigma that women are always in the domestic position is regarded as one of the things that led to a late start of acting women in politics.⁸

3.3 The Equality Principle in Human Rights Perspective

One of the basic meaning of human rights implementation is the emergence of gender equality among mankind. Introduction and basic understanding about what is meant by gender and why gender is an issue of development is the most important element in the meaning of

⁶Rosidawati, 2007, *Potret Keterwakilan Perempuan di DPRD Jawa Tengah*, diakses pada tanggal 16 Mei 2010 dari <http://rosidah.wordpress.com/2007/02/14/potret-keterwakilan-perempuan-di-dprd-jateng/>

⁷Nadezhda Shvedova, *Perempuan di Parlemen: Bukan Sekedar Jumlah, Bukan Sekedar Hiasan*, Yayasan Jurnal Perempuan, Jakarta, 1999, hlm. 17.

⁸ Budi Shanti, *Kuota Perempuan Parlemen : Jalan Menuju Kesetaraan Politik*, dalam Jurnal Perempuan: Untuk Pencerahan dan Kesetaraan, (edisi 19), YJP, Jakarta, 2001.

equality. In the 1945 Constitution, gender equality is considered as very worthy to be implemented. The strategy can be realized to integrate gender into all policies and programs of various organizations and educational institutions and establish an advocacy group in order to protect the rights of women by both the state and the community.

The UN Convention on the Elimination of All Forms of discrimination against Women (Convention on the Elimination of all forms of Discrimination Against Woman or CEDAW, 1979) and Indonesia has ratified the convention by Law No. 7 Year 1984. This means, the State Party to this Convention condemn discrimination against women and all forms (Article 2). To carry out the elimination of discrimination against women, the State must take concrete actions as defined in Article 2 of this Convention, they are:

1. To establish legal protection towards the rights of women on an equal basis with men and to assure through national competent courts and other government agencies, as well as the effective protection of women against any act of discrimination.
2. Do not engage in the practice of discrimination against women and ensure that government officials and state agencies will act in conformity with this obligation.
3. To repeal all national penal provisions which constitute discrimination against women.

The principle of equality before the law, the legal protection of women, equality between women and men and secured before the national courts. To remove discriminatory practices against women, law reform is needed in order to achieve the production of law that can firmly address gender issues. We need gender and law socialization to the ranks of law enforcement to change the mindset of androcentric values (look at something only from male perspective) towards a gender-based approach so that they have the gender sensitivity and empathy for the victims in the execution of duties during the judicial process in order to achieve gender equality.

4. CONCLUSION

The awareness towards human rights comes from human understanding on self-esteem, dignity, and the dignity of humanity. Because the real human rights has existed since man was predetermined to be present in the world. The existence of women in parliament is a prerequisite for the realization of gender-equal society which is the principle of human rights. The need to increase the political representation of women in Indonesia emerged from the

realization that all the priorities and political agenda should be in the reform and all the impossible can be achieved with the legal and political system of gender bias.

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