

# LEGAL ASPECTS OF WOMEN'S POLITICAL PARTICIPATION FROM A GENDER PERSPECTIVE

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# LEGAL ASPECTS OF WOMEN'S POLITICAL PARTICIPATION FROM A GENDER PERSPECTIVE

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**Abstract:** This article examines the legal aspects governing women's political participation from a gender perspective, with a focus on how women's political representation in the legal framework can support or hinder women's involvement in politics. This study examines the recognition of women's rights and their representation in the political system, as well as the challenges faced in achieving gender equality. Through an analysis of various laws and policies, this article identifies the challenges faced by women, including the lack of gender quotas, discrimination, and gender-based violence. By examining the role of law in creating a more inclusive political environment, this article concludes that legal reforms focused on gender equality are essential to increasing women's political participation, thereby promoting a more democratic and just society. This article highlights the importance of women's involvement in political decision-making and the resulting social implications. The findings suggest that despite progress in recognizing women's political rights, there are still structural barriers that need to be addressed to realize gender justice and balance in politics.

**Keywords:** Legal Aspect; Political Participation; Perspective; Gender.

## 1. Introduction

Women's politics and gender issues are increasingly in the spotlight in the global political arena. The role of women's politics in the context of a gender perspective has become a relevant and crucial topic in fighting for gender equality, supporting inclusive policies, and realizing fair and balanced representation at various policy levels. In a society that is still dominated by a patriarchal structure, women's political participation is often faced with various obstacles and challenges. However, it is important to recognize that women's involvement in politics has a significant impact not only on women themselves, but also on society as a whole.

At many levels, women continue to face difficulties in achieving fair and equal representation in the political arena. Although gender equality is formally recognized in many countries, the reality is that women are still consistently underrepresented in political institutions. Factors such as gender stereotypes, unequal access to resources, and a male-dominated political culture often act as barriers for women who want to get involved in politics.

However, it is important to understand that the presence of women in politics brings clear benefits. Studies have shown that the presence of women in political institutions can lead to more inclusive and representative decisions. Women often bring different perspectives to the decision-making process, which can help ensure that the interests of all members of society, including women, are heard and represented<sup>1</sup>.

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<sup>1</sup> Selvia Adriani and Siti Tiara Maulia, "Women's Participation in Politics," *Journal of Practice Learning and Educational Development* 4, no. 2 (2024): 131-36, <https://doi.org/10.58737/jpled.v4i2.287>.

Although there are many regulations<sup>8</sup> that support women's representation in politics, there are still significant gaps. Women's representation in parliament, professional staff, and leadership is still far from ideal. Although there is a trend of increasing gender equality, this increase has not reached an adequate level.<sup>11</sup> Indonesia itself, women's representation in politics brings up the main problem where the problem of women's representation is very low in the political sphere and the low commitment of parties that concretely defend women's interests. Although the determination of a 30 percent quota for Indonesian women in politics is a form of political access, in reality women tend to be made objects in development programs and have not been able to play a maximum role either as actors or as beneficiaries of development. This is because there is still an understanding of women's roles only as domestic roles so that they are less noticed in public roles, especially as political decision makers, plus the deep-rooted patriarchal culture.<sup>2</sup>

In Indonesia, it has long been legalized the Law related to the<sup>6</sup> ratification of the Convention on Women's Political Rights in Law Number 68 of 1958, the Law regulates the realization of equal standing or non-discrimination guarantees of equal rights to vote and be elected, guarantees of participation in policy formulation, opportunities to occupy bureaucratic positions, and guarantees of participation in socio-political organizations. A strong foundation is also in the 1945 Constitution, namely Article 28 H paragraph (2) which states "Everyone has the right to receive facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice". The provisions in the Law and the Constitution are a strong foundation for all groups and groups, both men and women, to be free from all discrimination and have equal opportunities in terms of social aspects, aspects of life, and political aspects.

The 30<sup>9</sup> percent representation of women in elections in Indonesia is explicitly regulated in Law Number 7 of 2017 concerning General Elections, especially regarding women's participation in legislative nominations. If we look at Article 245 of Law Number 7 of 2017 regarding the submission of prospective candidates for members of the DPR, provincial DPRD, and district/city<sup>10</sup> DPRD by political parties, including the requirements for women's representation, paragraph (2) states: "In submitting a list of prospective candidates as referred to in paragraph (1), each political party participating in the election must pay attention to women's representation of at least 30% (thirty percent).<sup>3</sup> In addition, Article 8 paragraph (1) Letter d of this law also stipulates that the General Election Commission (KPU) has an obligation to prepare<sup>4</sup> implementing regulations regarding elections, including provisions that ensure that political parties participating in the election comply with the 30<sup>8</sup> percent women's representation regulation. However<sup>12</sup> in fact, if we look at the data from the General Election Commission (KPU) based on the results of the 2019 election, women's representation in the National Legislative Institution or DPR RI is at 20.5 percent or 118 female legislators out of a total of 575 elected DPR RI members<sup>13</sup>. This means that the figure is still below the target mandated by law and stronger efforts are needed to achieve ideal women's representation in Indonesian politics.

Although the results of women's representation have not reached 30 percent in the Indonesian House of Representatives, various civil society organizations and gender activists continue to push for stronger affirmative policies, as well as increasing women's

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<sup>2</sup> "Law (UU) No. 68 of 1958 Approval of the<sup>8</sup> Convention on the Political Rights of Women," database of laws and regulations, 1958, <https://peraturan.bpk.go.id/Details/52837/uu-no-68-tahun-1958>.

<sup>3</sup> Abdul Hakam Sholahuddin, Anik Iftitah, and Uun Dewi Mahmudah, "Implementation of Article 280 of the Republic of Indonesia Law Number 7 of 2017 concerning General Elections," *Supremacy Journal* 9, no. 2 (2019): 17-27, <https://doi.org/10.35457/supremacy.v9i2.793>.

participation in politics. Some of the proposed efforts include increasing women's capacity through political leadership training, encouraging political parties to place women in strategic position numbers, and increasing public awareness of the importance of electing women as a more balanced representation in parliament. Increasing women's representation to at least 30 percent is very important to reflect on and implement in political life because it will make women more empowered to be involved in various problems that have not received attention related to gender equality in various aspects of life.

Women's representation in the DPR must be accompanied by a gender-based guard and struggle that can be sustainable in the political process. Lack of confidence in women to be able to advance and participate in politics because they are still influenced by cultural norms and the patriarchal cultural system is still embedded in people's lives. Although the state has provided equal opportunities for every citizen through the mandate of the Law, women feel that there is indirect discrimination that affects them and are still less trusted to be able to take part in political contests, so that this causes women's involvement in politics to be still low and mostly occupied by men.

According to Lucky Enderwati in her paper entitled "Reconstruction of the Paradigm of Women in Politics", affirmative action is needed as a law and policy imposed on women and certain groups by providing compensation and privileges in certain cases in order to achieve more proportional representation in various institutions and occupations. Affirmative action is positive discrimination or special steps taken to accelerate the achievement of justice and equality. One of the most important means to implement it is law and regulation as a guarantee of its implementation must be in the Constitution and Law. Quota regulation is part of affirmative policy or also called positive discrimination which is temporary until the social gap is resolved.<sup>4</sup>

Normatively, the presence of women is expected to influence the performance of legislative institutions, especially in efforts to encourage the realization of policies and laws that consider the interests and needs of women. In addition, the presence of women in parliament is also a starting point for making changes to the culture and political system that are still full of patriarchal values. A culture and political system that is more friendly to women is important to encourage a balance of access, participation, control and benefits in politics and government. Moreover, in the era of regional autonomy which still produces regional regulations that are discriminatory against women.

## 2. Method

This research is a normative legal research by analyzing laws and constitutions related to women's political participation. The aim is to understand how the law places women in the political structure, and to assess its suitability with the principle of gender equality. This research uses a qualitative approach method because it focuses on an in-depth analysis of legal concepts, social norms, and political and cultural contexts. This approach also considers a gender perspective, making it possible to explore structural issues that affect women's participation in politics. The data sources, apart from laws and constitutions, also come from relevant literature, such as books, journal articles, previous research reports, and statistics on women's political participation from official institutions such as the KPU. This research seeks to provide a critical view of the effectiveness of women's representation policies in politics, as well as recommendations for increasing women's participation in the political arena, based on legal analysis and a gender perspective.

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<sup>4</sup>Lucky Endrawati, SH., MH., "Reconstruction of the Paradigm of Women in Politics (Study of Legal Interpretation of the Text on Women's Representation in Parliament)," *Egalita*, 2012, 1-30, <https://doi.org/10.18860/egalita.v0i0.1977>.

### 3. Recognition of Women's Rights and Representation in Politics

Women's political representation is an important element if we want to place the context of Indonesian democratization in the perspective of gender-friendly democracy. Unlike male politicians who are more engrossed in "big political narratives", women activists seem to be more focused and consistent in fighting for a 30 percent quota for women's political representation as a joint struggle agenda. At least, in this decade, we have witnessed a strong movement from almost all organs and elements of women's struggle, both from politicians, NGO activists, mass organizations, academics, female journalists, even artists and celebrities who have directed almost all their political energy to one point, namely seeking more proportional, fair, and equal women's political representation.

The struggle for the recognition of women's rights and representation in politics has become an important milestone in efforts to realize gender equality in various countries. Women, who were often marginalized in political decision-making, are now increasingly participating and being recognized as important actors in the governance and policy-making process. However, although significant progress has been made, challenges remain. Women are challenged to break through elite male political lobbies and party political cultures that tend to be centralistic and patriarchal, as well as to change the political culture and mindset of party elites to provide greater space and opportunities for female political cadres to receive political training and education, including providing opportunities for women to sit in various strategic positions and be involved in the policy-making process.

Although the 30 percent quota is very strategic, the regulation is only one of the main elements in an effort to strengthen women's political representation. Women's involvement in the political system for the purpose of representation is indeed necessary, but it is certainly not sufficient. This means that going politics from women not only an activity to enter the process, mechanism, institution, and political system but also how women's political representation is able to expand the constituent base, namely concerning efforts to influence public decision-making processes, and efforts to build a social base for women's political representation, both through formal and informal political representation institutions including direct participation.

#### 3.1. History of Recognition of Women's Political Rights

The recognition of women's political rights began with the struggle for the right to vote. In many countries, women did not have the right to vote or stand for election until the early 20th century. Feminist movements and women's activists played a key role in the fight for these rights. For example, the suffrage movement in the United States and the United Kingdom was a major milestone for women. In 1920, through the 19th Amendment in the United States and the Representation of the People Act in the United Kingdom, women finally gained the right to vote.

Similar developments have occurred in many other countries, although the timing of their achievements varies. In Indonesia, women gained the right to vote in the 1955 General Election, the first post-independence election. Since then, women's participation in politics has continued to grow, although it has not yet reached the ideal level. Entering the Reformation era, the ministers of state for Women's Empowerment (especially during the leadership of Khofifah Endar Parawangsa), persistently continued to raise the issue of gender equality as the mainstream. However, the hard work of female ministers, activists, and various women's organizations in the country to realize equal rights continues to be hampered by patriarchal culture and anti-participatory political practices. One important underlying cause is that the socio-cultural construction of women is often used as a tool to legitimize power. This legitimacy and dominance can

be seen from the attitude of society which increasingly places women's sexuality as a commodity, a tool to satisfy men's sexual desires.<sup>5</sup>

The history of human civilization is largely dominated by men, so that men dominate all roles in society throughout history, except in matriarchal societies where there are very few. So, from the beginning there has been gender inequality which places women in a marginal position. Women are considered unsuitable to hold power or have the same abilities as men and therefore women are not equal to men. Men must have and dominate women.

### 3.2.Challenges of Women's Representation in Politics

Women and politics are hard to imagine, especially in developing countries, this is because humans have been formed by culture, which makes women limited to household matters, while politics which is closely related to power is always seen as more appropriate for men with the assumption that women are still taboo and controversial towards leadership. Despite progress in women's rights, women's representation in politics is still a crucial issue. In many parliaments and legislative institutions around the world, women are still severely underrepresented. According to data from the Inter-Parliamentary Union (IPU), until 2023, women will only occupy around 26 percent of parliamentary seats worldwide.<sup>6</sup>

The factors that cause low representation of women include: 1) Many countries are still influenced by patriarchal norms that place men as the main power holders, women are often considered unsuitable or incapable of politics; 2). Structural barriers, these often prevent women from advancing in political careers, such as double workloads, gender stereotypes, and lack of access to networks and resources needed to win elections; 3) Lack of affirmative policies, although some countries have implemented gender quotas or other affirmative policies to increase women's representation, many other countries still do not have such measures. Without affirmative policies, it is difficult for women to compete in a political world dominated by men.<sup>7</sup>

The important spirit of democracy such as representation, equality, respect for differences and opinions has been stated in the opening of the 1945 Constitution and the Amendment to the 1945 Constitution which regulates the rights and obligations of the state and citizens. Gender associations have so far created fear in both men and women who are too narrow-minded that gender is identical to "fighting men" or "fighting God's nature as women".<sup>8</sup>We have seen women sitting in strategic positions in various fields, both social and political to economic, but the expectations and demands of society for women as leaders have high standards, this is seen when women, even though they have successfully demonstrated their abilities in the field of leadership, must still have responsibilities towards the household and family. Women are required to have high qualifications to be said to be worthy of being a leader, including in terms of educational background, professional performance, or their activeness in various organizations, both social, political, and economic. Not to mention that women are always seen as ideal models to be career women, wives, and mothers who can divide their time, are smart, public figures but still do not forget their nature in the domestic sphere.

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<sup>5</sup> Loura Hardjaloka, "Portrait of Women's Representation in the Face of Indonesian Politics: Perspective," *Jurnal Konstitusi* 9, no. 2 (2012): 404–30.

<sup>6</sup> Marsyifa Novia Fauziah, Mochamad Faizal Rizki, and Rachmat Ramdani, "THE CHALLENGE OF WOMEN'S REPRESENTATION IN FORMAL POLITICS," *Journal of Government Science Widyia Praja* 49, no. 1 (2023): 12–22, <https://doi.org/10.33701/jipwp.v49i1.3034>.

<sup>7</sup> Dimyati Huda, *Rethinking Women and Gender Justice*, 2020.

<sup>8</sup> Lusya Palulungan, Muhammad Taufan Ramli, and M Ghufuran, *Women, Patriarchal Society & Gender Equality*, BaKTI: Knowledge Exchange for Eastern Indonesia Region, 2020.

### 3.3. Opportunities to Increase Female Representation

Women's representation in politics is a crucial step towards gender equality and building a more inclusive society. While the challenges are significant, the opportunities to increase women's representation are also wide open. With the right support, women can change the narrative and ensure that their voices are heard in political decision-making. This will not only benefit women, but will also enrich democracy and public policies that are more responsive to the needs of society.

Raising awareness of the importance of women's roles in politics is a first step. Education about gender equality and leadership for women can help prepare them for political engagement. Training and mentorship programs can also help women build the skills they need. Some countries have also implemented affirmative action policies to increase women's representation in politics, such as gender quotas. These policies ensure that women have greater access to important positions in government and parliament.

Increasing women's representation in the political arena can also be done by utilizing social media and information technology to reach a wider audience, amplify messages, and build a community of supporters. Digital campaigns can increase the visibility of issues faced by women and encourage political participation. In addition, the role of political parties is also important in supporting women's representation. By establishing internal policies that support female candidates, such as training and funding, parties can create a more friendly environment for women. Commitment from party leaders to fight for gender equality is also very necessary.

Increasing women's representation in the political arena is not only the responsibility of women themselves, but also of society and wider institutions. The various perspectives and strategies of women's struggle that exist are actually not only effective as a tool for intelligence and awareness, but more than that as an instrument in building a large coalition of women's movements to realize equality, justice, tolerance, and democracy. The unification of many forces in a large coalition of women's movements will further increase women's bargaining position in the world of politics. If we believe that "politics does not start from hatred, but from a sense of compassion and reason to build the nation", then women's political aspirations to participate in the nation's political life can be interpreted as a form of strengthening democracy which has so far been strongly masculine with its characteristics that tend to be arrogant and aggressive.

## 4. Women's Political Contributions and Implications in Gender Perspective

In recent decades, women's contributions to politics have been increasingly recognized as a key factor in advancing gender equality and strengthening democracy. A gender perspective provides a framework for understanding how women's presence and participation in politics benefits not only them, but also the entire society. One of the main arguments for increasing women's political participation is to achieve better gender balance in political institutions. Balanced representation ensures that women's interests and perspectives are fairly represented in decision-making processes. Gender equality is a fundamental principle in society that demands equal and fair treatment for all individuals, regardless of gender. In this context, women's political roles are crucial in efforts to achieve gender equality at various levels, from the local to the international level.

Women in politics often bring issues related to social justice to the public agenda. They tend to advocate for policies that address inequalities, such as reproductive health, education, and protection against gender-based violence. As such, women's political engagement can bring a different perspective and complement more holistic political

5<sup>1</sup> decisions. <sup>9</sup>In addition, women's political participation can also play a role in changing political culture and existing social norms. Through women's political success and leadership, perceptions of gender roles in politics can change, paving the way for more women to become involved in the political arena. Women politicians are often the main spokespeople in advocacy for gender issues. They fight for women's rights, fight against gender discrimination, and promote awareness of the problems faced by women. By actively championing these issues, women politicians help build public awareness and pressure governments to act in efforts to achieve gender equality.

The presence of women in political decision-making enriches the existing perspectives. Women bring experiences and perspectives of the unit that can produce more comprehensive policies. This is important to create more innovative and responsive solutions to the needs of diverse communities. In addition, women who are active in politics can also provide role models for the next generation of young people to get involved in politics and fight for their rights. By seeing female figures in positions of power, girls are more motivated to participate in the political process, both as voters and as potential leaders, they will also be more confident that they can also achieve the same position in the future. This can open the door to increased female participation in politics, which in turn will create a representative society.<sup>10</sup>

In addition, it is also important to remember that women's presence in decision-making is not just a matter of numerical representation. Qualitative aspects such as commitment to gender issues, advocacy for social justice, and leadership integrity also need to be considered. Thus, ensuring that women are not only present in decision-making spaces but also have substantial influence in shaping policy is key to achieving sustainable change.

Women's involvement in politics has implications for the transformation of existing power structures. Increasing women's representation can challenge patriarchal norms and practices, and pave the way for broader social change. This has the potential to create a more egalitarian political system. In improving the quality of democracy, the presence of women in politics plays a major role in increasing representativeness and transparency in decision-making. This can lead to increased public trust in political institutions and strengthen democratic legitimacy. An inclusive democracy reflects the diversity of society.<sup>11</sup>

The reform era is a new era of social change in the Indonesian nation after the fall of President Soeharto. <sup>12</sup>the reform movement initiated by intellectuals and students, gender equality and women's participation in the public sphere after the reformation is an interesting issue because previously the role and access of women were very limited. The culture and political system that had changed during the reformation era gave rise to great women, female figures who played a role in the political sphere continued to increase when the DPR made a new law requiring political parties to involve 30 percent of party management filled by women.<sup>12</sup>

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<sup>9</sup> Very Wahyudi, "The Role of Politics in Gender Perspective," *Politea: Journal of Islamic Politics* 1, no. 1 (2018): 63–83.

<sup>10</sup> Abraham Nurcahyo, "The Relevance of Patriarchal Culture to Women's Political Participation and Representation in Parliament," *Agastya: Jurnal Sejarah Dan Pembelajarannya* 6, no. 01 (2016): 25.

<sup>11</sup> Adriani and Maulia, "Women's Participation in Politics."

<sup>12</sup> Rizki Priandi and Kholis Roisah, "Efforts to Increase Women's Political Participation in General Elections in Indonesia," *Journal of Indonesian Legal Development* 1, no. 1 (2019): 106, <https://doi.org/10.14710/jphi.v1i1.106-116>.



## 5. Conclusion and Suggestions

As a general conclusion, the legal aspects that regulate women's political participation play a crucial role in creating gender equality in the political arena. Although there are progressive regulations, the implementation of these policies still faces structural and cultural challenges such as discrimination and gender-based violence that still hinder their involvement. The dominant patriarchal culture in the reality of society and even the state, makes it difficult to change the view that politics is an important public area that can be entered by women. The public's enthusiasm to enter this public area has indeed increased, but the percentage is still low even though it has been guaranteed by the provisions of the law and in reality the involvement of women in politics as members of the legislature has not been implemented optimally.

By increasing representation, advocating for gender issues, providing inspiration and addressing existing challenges, women's politics can play a critical role in the fight for gender equality. In exploring the barriers and challenges, it is important to understand that these challenges are not only individual, but also related to broader social and cultural structures. A gender-based approach in law and policy is essential to creating an environment that supports women's active participation in politics. Through joint efforts, it is hoped that women's voices can be increasingly heard and valued in decision-making processes.

## 6. Recommendation

Therefore, legal and policy reforms that focus on implementing gender quotas, strengthening legal protection, leadership training, financial support, and education on political rights are urgently needed. By creating a more inclusive legal framework, it can encourage wider political participation of women, which in turn will strengthen democracy and social justice in society. Collective efforts from governments, civil society, and international institutions are essential to ensure that women have equal opportunities to contribute to the political decision-making process. Better representation of women in politics will bring positive changes that have a wide impact, not only for women but for the entire nation.

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