

Perkembangan politik hukum pengaturan partisipasi perempuan di bidang politik pada era reformasi periode 1998-2014 (studi partisipasi politik perempuan dalam undang-undang tentang partai politik dan undang-undang tentang pemilihan umum anggota DPR, DPD dan DPRD) = The development of legal policy regulations concerning women participation in politics in reformation area study in woman participation in act of political party and act of parliament election

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Abstrak

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Affirmative Action (tindakan khusus sementara) untuk perempuan di bidang politik, pertama kali termuat dalam Undang Undang Nomor 31 Tahun 2002 tentang Partai Politik dan Undang Undang Nomor 12 Tahun 2003 tentang Pemilu Anggota DPR RI, DPD dan DPRD. Regulasi tersebut berlanjut pada Undang Undang Nomor 2 Tahun 2008 dan Nomor 2 Tahun 2011 tentang Partai Politik dan Undang Undang Nomor 10 Tahun 2008 dan Undang Nomor 8 Tahun 2012 tentang Pemilu Anggota DPR, DPD dan DPRD (Legislatif). Ketentuan tersebut merupakan hal baru di Indonesia karena mengatur keadilan gender dalam rekrutmen dan manajemen partai politik dan memasukkan 30% keterwakilan perempuan dalam pencalonan anggota legislatif, selain itu ada keharusan partai politik untuk memasukkan setidaknya 1 orang perempuan dalam setiap 3 bakal calon Legislatif (zipper system).

Politik hukum dianggap sebagai kebijakan hukum (legal policy) yang diharapkan bisa membantu mencapai tujuan yang diinginkan masyarakat, karena politik akan mempengaruhi hukum dengan cara melihat konfigurasi kekuatan yang ada di belakang pembuatan dan penegakan hukumnya serta akan dilaksanakan secara nasional oleh pemerintah. Politik Hukum adalah aktivitas memilih cara yang hendak dipakai untuk mencapai suatu tujuan sosial dan tujuan hukum tertentu. Undang-Undang Paket Politik yang ada sejak Reformasi merupakan representasi dari keinginan masyarakat (perempuan) untuk mempengaruhi pembuatan kebijakan di bidang Legislatif, dan hasilnya pada Pemilu Legislatif pada Tahun 2004 jumlah keterwakilan perempuan sebesar 11,3 %. Pada Pemilu Legislatif Tahun 2009, setelah Keputusan Mahkamah Konstitusi tentang suara terbanyak, keterwakilan perempuan di DPR sebesar 18,04% , di DPRD Provinsi sebesar 16,0 % dan pada DPRD Kabupaten/Kota sebesar 12,0 % .Jumlah tersebut lebih tinggi dibandingkan pada masa sebelum diterapkannya affirmative action pada masa Orde Lama dan Baru yaitu pada Pemilu Tahun 1992 (sebesar 12,50%).

Penelitian dalam disertasi ini melihat hukum dalam konsepnya sebagai

norma sekaligus perilaku dan implementasinya, metode yang digunakan adalah sosio legal research, dengan demikian teks yang mengatur partisipasi perempuan dikaji dengan konteksnya di masyarakat. Permasalahan dalam penelitian ini adalah (1) bagaimana perkembangan politik hukum pengaturan partisipasi perempuan di bidang politik khususnya di Lembaga Legislatif (Perwakilan), (2) bagaimana implementasi pengaturan keterwakilan perempuan di bidang Legislatif sebagaimana diamanatkan Undang-Undang Partai Politik dan Undang-Undang Pemilu Legislatif. Sedangkan permasalahan (3) adalah merumuskan bagaimana sebaiknya pengaturan partisipasi perempuan di Legislatif (Perwakilan) yang akan datang.

Penelitian ini termasuk kedalam jenis penelitian kualitatif dengan menggunakan teori dari Hans Kelsen, Teori Responsif Philippe Nonet dan Philippe Selznick, Teori Hukum Progresif, Lawrence M Friedman dan William J Chambliss dan Robert B Seidman, dan Teori Pembentukan Agenda dari J.M.Otto Lokasi penelitian adalah Provinsi Jawa Tengah, Sumatera Barat dan Bali, dengan perbandingan negara Swedia, The Netherlands dan Malaysia dan 3 Partai Politik yaitu PDI Perjuangan, Golkar dan PKB.

Hasil dari penelitian ini adalah (1) perkembangan politik hukum terutama sejak era reformasi tahun 1998 mendorong meningkatnya partisipasi perempuan di bidang politik khususnya di lembaga Legislatif (Perwakilan), (2) Budaya patriarkhi yang masih berkelindan pada stakeholder termasuk partai politik dan masyarakat pemilih termasuk perempuan menjadi kendala belum optimalnya partisipasi perempuan di Legislatif (Perwakilan) di Jawa Tengah, Sumatra Barat dan Bali. (3) pengaturan ideal keterwakilan perempuan di bidang politik khususnya pada Legislatif (Perwakilan) memerlukan pengaturan yang bersifat responsif dan progresif khususnya pada pembentukan Undang-Undang Partai Politik dan Undang-Undang Pemilu Legislatif yang akan datang.

Partai Politik segera memasukkan program terkait dengan pendidikan politik dan pemberdayaan perempuan di dalam Anggaran Dasar/Anggaran Rumah Tangga. dengan demikian Partai Politik dapat melaksanakan program kaderisasi, rekrutmen, pendidikan politik bagi perempuan, sehingga akan tersedia cukup banyak calon legislatif perempuan yang berkualitas. Hasil lainnya adalah memaksimalkan lembaga suprastruktur, infrastruktur dan lembaga non departemen dalam meningkatkan kualitas dan kuantitas perempuan di bidang politik.

Berdasarkan hasil penelitian diatas, penelitian ini merekomendasikan agar tetap memasukkam prinsip affirmatif action di dalam Undang-Undang Partai Politik dan Undang-Undang Pemilu Legislatif. Selain itu Partai Politik sebagai stakeholder utama diwajibkan memasukkan program pemberdayaan perempuan dalam AD/ART sebagai syarat utama menjadi peserta pemilu Legislatif. Hal ini disebabkan karena dari 12 partai politik peserta pemilu tahun 2014 hanya 3 partai politik yang mempunyai program pemberdayaan perempuan di dalam AD/ART

yaitu (PKB, Gerindra, dan PAN). Partisipasi perempuan di Lembaga Legislatif akan meningkat sebagaimana diamanatkan Undang-Undang yaitu sebesar 30% jika pada Paket Undang-Undang Politik yang akan datang menggunakan sistem proporsional dengan daftar tertutup, dengan syarat partai politik mempunyai komitmen yang kuat terhadap peningkatan partisipasi perempuan di lembaga Legislatif.

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Affirmative Action is temporary special measure for woman in political area has regulated on Act of Political Party (UU Nomor 31 Tahun 2002) and Act of Parliament Election (UU Nomor 12 Tahun 2003), it is regulate further and revised on Act Number 2 Year 2008 and Act Number 2 Year 2011 on Political Party and Act Number 10 Year 2008 and Act Number 8 Year 2012 on Parliament Election. Those regulation on affirmative action for woman are considered as a 'new stuff' in Indonesia that specifically regulate about the gender equality on political party recruitment and management that include the 30% woman representation on legislative candidate selection, it is also regulate that political party have to included at least one woman in every three candidate of preliminary legislative (zipper system).

Legal policy are considered as a legal policy that expected to change purpose on society because political will in law making process could make an impact on law from the basis of the configuration of political background process on law making process in legislative. The Act of Political Parties which had been exist since reformation can be considered as reflaction of people will to influence on policy making. The result from Legislative Election at 2004 has make woman representation in parliament about 11,3% and Legislative Election at 2009, after Constitutional Court Decree result 18,04 woman representation in Legislative and 16% on Province Legislative and 12% on City Legislative , those numbers are higher if its compared to the legislative election on the new order regime (12,5% on the 1992 election).

This doctoral research is trying to see the problem of woman representation based on law as norm and also behavior include its implementation by using socio legal research method to actualize law on its text and context. The problem that appear on this research are : first, how the development of the legal policy on woman representation in the political field especially in legislative, the second is how the regulation of woman representation works in reality according to the Act of Political Parties and the Act of Parliament Election, and third is how to formulate the ideal regulation of woman political legislative participation in the upcoming election.

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took place in Central Java, West Sumatra and Bali, with the comparison three different nation state Swedia, Netherlands dan Malaysia, the study of political party in Indonesia take place on PDI Perjuangan, Golkar and PKB.

The results from this research are (1) the development of the legal policy especially in reformation era after 1998 is very determining woman representation in political field especially legislative field. (2) Patriarkhi culture is still give an impact to the stakeholders such as political party and the voters include women it self become the main factor in the optimalization of woman participation number in Central Java, West Sumatra and Bali. (3) The ideal woman legislative representation should be regulate with progressive and responsif laws which is required in the formulated of Political Party Acts should held women empowering programme on their basic principles, so they could run and should be given on the party that doesnt obey the woman political representation both on the recruitment or in the management of the party.

Political parties as the main stakeholders that related to the woman participation especially political party should have a clear agenda to achieve the ideal condition of woman representation in political field from the level of kaderization, recruitment, political education for woman, that have a clear impact both on the quality and quantity on the woman politician. The Maximalization of the suprastructure and infrastructure institution, and even the grassroot political movement and woman movement from NGO?s.

Based on these Research, I recommend that the future Political Party Act and Legislative Election Acts should maintain the affirmative action principles. On the other hand, all of the stakeholders that correlated with empowering woman, on political area, especially the Political Party to held an woman empowerment programmes. So far, there are only three among twelve party on the 2014 election that has already have woman empowerment program on their rule of conduct; PKB, Gerindra and PAN. On the future, the rule of conduct that consist the woman empowerment and political agenda as one of the election?s verification requirienment. The number of woman participation on Parliament could raised if on the future election act is using the Proportional Closed List System, plus the commitment of political party to enhance the number of woman member is a must.;Affirmative Action is temporary special measure for woman in political area has regulated on Act of Political Party (UU Nomor 31 Tahun 2002) and Act of Parliament Election (UU Nomor 12 Tahun 2003), it is regulate further and revised on Act Number 2 Year 2008 and Act Number 2 Year 2011 on Political Party and Act Number 10 Year 2008 and Act Number 8 Year 2012 on Parliament Election. Those regulation on affirmative action for woman are considered as a ?new stuff? in Indonesia that specificly regulate about the gender equity on political party recruitment and management thats include the 30% woman representation on legislative candidate selection, it is also regulate that political party have to included at least one woman in every three candidate of preliminary

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