

Affirmation of Women's Representation in the 2024 Election: Enforcement Through Judicial Power Institution

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Abstract. This article examines the extent to which efforts to enforce affirmation of women's representation in the implementation of elections in Indonesia and a comparative study between Indonesia and South Korea is also conducted. This issue will be examined normatively. The results of the study show that the decline in affirmation of women's representation occurred after the issuance of General Election Commission Regulation Number 10 of 2023 which changed the method of calculating female legislative candidates to rounding down as regulated Article 8 paragraph (2) even though affirmation of women's representation in Indonesia shows positive developments such as in South Korea. This issue was resolved through Supreme Court Decision No. 24 P/HUM/2023 which revokes the substance Article 8 of the General Election Commission Regulation Number 10 of 2023 which is also supplemented by the Constitutional Court Decision No. 125-01-08-29/PHPU.DPR-DPRD-XXII/2024 which revokes the results of the General Election in the electoral district of Gorontalo 6 because it does not meet the number of women's representation and at the same time orders the General Election Commission to hold a re-election, indicating an effort to uphold the affirmation of women's representation in the implementation of general elections in Indonesia through the judicial power institution.

1 Introduction

The primary feature of the rule of law, which is to guarantee the protection of human rights, is the logical outcome of upholding the principle of the rule of law as emphasized in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (henceforth referred to as the 1945 Constitution). Equality before the law and in the government is one of the protections of human rights. It is common to refer to this type of promise as "equality before the law" [1].

The written constitution of Indonesia (UUD NRI 1945) guarantees equal opportunities for all positions in the government's administrative branch.

This is unambiguously stated in Article 27 paragraph (1), which states that all citizens are held to the same standards by the law and government and are required to uphold them without exception. Every citizen, regardless of background, is protected by this constitutional fra

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mework, including women, who are granted equal opportunities to actively engage in government administration. The state grants equal rights to all women, regardless of their gender, including to those who hold important positions in state administration. The old belief that women were exclusively the subjects of policy has given way to the idea that women now shape policy [2].

Not only are women given the chance to become people's representatives in the legislative branch, but they are also assigned to important state positions as policymakers in the executive branch. In holding general elections as a path to becoming people's representatives in the legislative assembly (The House of Representatives or a Regional Legislative Council) or even becoming executive leaders (President or regional leaders), women's representation is one of the important things that is always paid attention to. Starting from the representation of women as election organizers to the representation of women as election participants, these are issues that are sought to be fulfilled so that the percentage of women's representation is clearly. Women are reflected in particular numbers and percentages during election seasons, indicating a certain degree of representation. While this approach does not imply a rejection of the idea of equality before the law and the government, it does indicate that women need more room to develop all of their skills, including the ability to represent the people in elections. The place of women in regulation has a specific role in the current democratic system. Fairness, equal access to political engagement, and equal chances for women to impact the political process from a female perspective are the primary drivers of women's participation in politics. Women's affirmation is a process that brings women into the democratic sphere.

A practical example of this is the assertion that elections, particularly legislative elections and provincial, regency, or city Regional Legislative Council, require a minimum of thirty percent female representation. The creation of Article 245 of Law Number 7 of 2017 concerning Elections, which states that the list of potential candidates in each electoral district contains at least 30% representation of women, is another example of how women are affirming their right to hold elections. In fact, this system guarantees the number of women who can be elected to the legislature will be equal to the number of males who can serve as fellow legislators. As Puan Maharani, the first female Chair of the The House of Representatives-Republic Indonesia, assumed the top position as the highest legislative institution, this affirmation of women in legislative elections became more apparent. We acknowledge the importance of political parties, but it is impossible to separate the endeavor to appoint a woman as Chair of the The House of Representatives of the Republic of Indonesia from the perception of political affirmation of women. The attempt to consistently support women's representation subsequently turned into a topic of discussion and even a challenge when simultaneous elections were being held in 2024. This issue emerged when the General Election Commission, which organized the elections, implemented General Election Commission Regulation Number 10 of 2023 (henceforth referred to as General Election Commission Regulation 10/2023). Article 8 paragraph (2) of this regulation states that each electoral district generates a fractional number when calculating the 30% of female candidates; if the two decimal places after the comma are less than 50, the calculation results get rounded down [3].

In reality, General Election Commission Regulation Number 20 of 2018 governed rounding up in the previous election, when the General Election Commission also issued a General Election Commission Regulation about determining the number of female candidates. The number of female legislators who are later elected to serve in the legislature will be impacted by this variation in regulation. It was thus this approach that gave rise to the concept of a 'half-hearted affirmation' of women's representation in the simultaneous elections of 2024.

The General Election Commission Regulation 's highlight the requirement for additional law enforcement agencies that can preserve the 1945 Constitution's fundamental principles while also enforcing the election legislation's content. In this regard, it is crucial to clarify the function of judicial power structures in relation to defending initiatives to uphold women's representation in elections.

This article will discuss the development of the affirmation of women's representation in elections, the vacuous discussion surrounding women's representation from the General Election Commission, the organization that organizes elections, through General Election Commission Regulation Number 10 of 2023, and the attempts to enforce the affirmation of women's representation through decisions made by the Supreme Court and the Constitutional Court, two institutions of judicial power. - the decision [4].

This article will look more closely on the discussion that has developed around women's representation in elections in Indonesia based on the description provided. As a result, the study's main issue is how much work is being done to maintain women's representation in elections held in Indonesia?

2 Method

Referring to the description of the background and focus of the problem to be studied, the legal problem will be studied normatively. The study that is studied using the normative research type is also called doctrinal or literature research. Analysis using the normative method is carried out by analyzing literature such as the state constitution, laws and regulations, books, journals, jurisprudence, and other literature that has a common thread of connection with the object of research. Normative legal research is research that studies written law in various aspects such as aspects of theory, philosophy, comparison, structure or composition, consistency, general explanation and explanation of each article, formality and binding power of a law and the language used is legal language. This is in line with this study which will examine the validity of several laws and regulations to the power of court decisions. In addition, the comparative element by comparing the affirmative action mechanism in South Korea further confirms that this study is a doctrinal or literature study.

The study of the problems studied normatively as in this research article is analyzed using several approaches. There are several approaches that can be used by a researcher. These approaches are: the legislative approach, the conceptual approach, the analytical approach, the comparative approach, the historical approach, the philosophical approach, and the case approach. In addition, there is also a historical approach as part of the normative analysis.

Referring to the discussion objectives, not all legal approaches are taken but are limited to four approaches that will be used, namely:

First, the approach to statutory regulations by understanding the hierarchy and principles in statutory regulations starting from the 1945 Indonesian Constitution, the Election Law, and the General Election Commission Regulation. In addition, the existence of court decisions, namely the Supreme Court and Constitutional Court decisions that are related to other statutory regulations being studied, will also be studied.

Second, the comparative approach is carried out by conducting a comparative legal study. This comparative legal study. The comparison process includes what methods are used to compare the main problems. Therefore, several limitations are made so that the comparison made is more focused on the findings of the problem. This comparative approach is carried out by comparing the affirmative action mechanism in Indonesia and in South Korea.

Third, the historical approach is carried out within the framework of tracking the history of legal institutions from time to time while helping researchers understand the philosophical meaning of legal rules from time to time. This approach is used to find the meaning and substance of affirmative action regulations in Indonesia so far.

Fourth, the case approach is based on facts or legal events that occur so that they become references in legal analysis. One of the cases that occurred and was then analyzed in this article was the failure to fulfill the quota for female candidates, which was an affirmative action in the legislative election in one of the electoral districts in Gorontalo Province. The entire discussion will be analyzed normatively through several of these approaches and then supported by descriptive-evaluative data analysis. The data that has been collected through data collection activities has not provided any meaning for the final objective of this study. Therefore, it is appropriate that after data collection, data processing activities are carried out, which are evaluative in nature. The point is that the researcher provides justification for the research results. The researcher provides an assessment of the research results. Through this, it is hoped that it will answer the question of affirmative representation of women in the 2024 general election

3 Discussion and Analysis

3.1 Arrangements for Affirming Women's Representation in Elections

The implementation of state administration, whether general or specialized in certain areas, is governed by the constitution, which serves as the highest legal basis. In general, a country's Constitution comprises three major components: first, guarantees for human rights and citizens, second is the creation of a nation's basic constitutional framework. Third, there is a basic division and limitation of constitutional tasks [5].

In terms of the three primary things in a country's constitution, and without diminishing the importance of the other two, ensuring human and citizen rights is fundamental and absolute in the formation of a country. This is because the state and its citizens are inextricably linked throughout the process of state establishment and life.

The forms and constitutional guarantees for human rights are divided into categories connected to the fulfillment of each individual's life. As stated in the background section, the guarantee of equality before the law and government reflects the overall control of all citizens' rights. Meanwhile, the regulation of special matters is also a constitutional right, as stated in Article 28H paragraph (2), which states that "Everyone has the right to receive special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice" [6].

The phrasing of this article demonstrates that special treatment for specific parties in the interest of equality and justice is conceivable. The unique treatment in question is a type of positive discrimination, sometimes known as affirmative action. This type of activity addresses the status of a woman and a man in carrying out specific tasks, such as political activities.

Affirmative action (positive discrimination) permits the state to treat certain groups that are underrepresented differently. *In line with this, affirmative action can be defined as a law or policy that mandates it to be applied to specific groups based on race, skin color, gender, religion, and culture. Compensation and privileges may be provided in some instances in order to attain more professional representation in various institutions and jobs. This action is positive discrimination, carried out to accelerate the achievement of justice and equality.*

In particular, the manner of affirmative action in politics is chosen during the election process, with a percentage of elected female legislative candidates occupying places in the The House of Representatives of the Republic of Indonesia or the provincial, regional, or city Regional Legislative Council. The small number of women in parliament, along with the recognition that more women should be involved in decision-making, sparked the formation of a movement to enhance women's representation in parliament. This movement was

pioneered by women's activists, groups, and organizations that arose openly prior to the fall of the New Order dictatorship on May 21, 1998, but only began to function systematically after the 1999 election. They introduced the concept of affirmative action (affirmation policy) in the form of women's representation quotas, which were to be implemented within a democratic electoral system [7].

The affirmative action steps outlined in the constitution are consistent with human rights principles. This is then specified in Article 46 of Law Number 39 of 1999, which reinforces measures to increase women's representation. Article 46 states that the general election system, parties, legislative body elections, and appointment systems in the executive and judicial branches shall ensure women's representation in accordance with the established conditions. However, affirmative action for women cannot be enacted because the election legislation was passed first, as legislation Number 3 of 1999.

In the following stage, affirmative action activities might be found in legislation pertaining to the implementation of elections or political parties. The table below summarizes affirmative action efforts in many pieces of legislation [8].

Table 1. Affirmative action settings

Constitution	Implementation of Elections	Article and Substance
Laws of the republic Indonesia Number 12 of 2003 About General Election of Members of the DPR, DPD and DPRD.	Legislative Election in 2004	Pasal 65 Ayat (1) "Each political party participating in the election can nominate candidates for members of the DPR, Provincial DPRD and Regency/City DPRD for each Electoral District, taking into account women's representation of at least 30%."
Law of the Republic of Indonesia Number 10 of 2008 concerning General Elections of Members of the DPR, DPD and DPRD.	Legislative Election in 2009	Article 53 jo. Article 52 "The list of prospective candidates as intended in Article 52 contains at least 30% (thirty percent) female representation" Article 55 paragraph (2) "In the list of prospective candidates, for every 3 (three) prospective candidates there is at least 1 (one) female prospective candidate"
Law of the Republic of Indonesia Number 8 of 2012 concerning General Elections of Members of the DPR, DPD and DPRD	Legislative Election in 2014	Article 55 "The list of prospective candidates as intended in Article 53 contains at least 30% (thirty percent) women's representation"
Law of the Republic of Indonesia Number 7 of 2017 concerning General Elections	Legislative Election in 2019 and 2024	Article 245 "List of prospective candidates as intended in article 243 contains women's representation of at least 30% (thirty percent)"

Source: Legislative Election Law and Election Law

The limitation of women's representation at 30% demonstrates that post-reformation, legislative elections will be implemented, followed by simultaneous elections in 2024, to accommodate affirmative action initiatives in all elections. *According to Khofifah Indar Parawansa, the history of women's representation in Indonesian parliament is a long saga of women's battles throughout the country. The first Indonesian women's congress, held in 1928 to raise awareness and foster a sense of nationalism among women, was a watershed moment because it contributed to growing chances for Indonesian women to participate in development, including politics* [9].

The presence of affirmative action efforts in every election does not guarantee the achievement of 30% legislative representation because the Indonesian system uses an open proportional election system in which each legislative candidate has the same chance of being elected based on the number of votes received. However, affirmative action activities will allow a greater number of female legislative candidates to be elected.

Women's representation in parliament is an important aspect of achieving gender equality in a country because it can challenge social and political systems that promote a culture of female subordination (Asiedu). According to studies, women's representation in parliament is directly proportional to the level of attention paid to women's issues (UN Women). Not only that, but include women in the policy-making process in parliament is one method to guarantee that policy outcomes align with gender equality goals [10].

In South Korea, efforts are underway to retain women's representation by reinforcing it. The Democratic Republic of South Korea shares concerns regarding women's representation in parliament. South Korea also imposes minimum conditions for competing parties, including women's representation as candidates in the general election for legislative positions. South Korea's election law was also amended to allow for female representation in parliament [11].

South Korea holds national elections to elect the President and the National Assembly. The President is directly elected for a single five-year term by a plurality of votes. South Korea's parliamentary system, known as "Kukhoe" or the Korean National Assembly (KNA), is unicameral, or with only one chamber. The Korean National Assembly is South Korea's sole legislative assembly. It has 299 seats and is held every four (four) years in all 245 electoral districts, plus 54 additional seats that are allocated to political parties according on the proportion of votes received. This arrangement is typically used by homogeneous republics, which consider an upper house unnecessary. However, the KNA's most essential powers are to enforce, change, and abolish laws [12].

In general, South Korea employs a hybrid general election system that includes the features of both district and proportional voting systems (parallel system). This electoral system does not compensate for district votes; instead, it combines a single-member district with proportional representation from the national party list. Gender quotas were established alongside election reform in a mixed electoral system. Numbers were implemented in the Political Parties Act in 2000 as part of a political reform program prior to the 2000 national election. However, the 2000 law simply required a 30% quota of voluntary female candidates on a party's proportional representation list; parties that disregarded it were not sanctioned.

In its development, the quota for proportional representation seats increased from 30% to 50% for each electoral level and became legally mandatory in regional and national elections. Very importantly, the placement mandate for candidates is specifically enforced by the "Zipper" list method, where women and men must alternate on the voter list for proportional party representation. A new 30% gender quota portion is set for small to medium district nominations; the small to medium district quota is noted to be weaker compared to candidates nominating in proportional representation. Political parties must make every effort to field female candidates in up to 30% of small and medium-sized districts.

Specifically for the general parliamentary election, there has been a change in the election law in South Korea, which requires parties to nominate 30% of women on the election list. Changes show that female candidates in elections have stabilized at the proportional representation level; the number of women has continued to increase, being elected at the small-medium district level four times (2000, 2004, 2008, and 2012 elections). Elections have been stable, so there has been an increase in the number of women's representatives in elections [13].

3.2 Quo Vadis General Election Commission Regulation Number 10 of 2023

The existence of affirmative action efforts which are constitutionally guaranteed and then further translated into several laws governing the implementation of Legislative Elections have had a significant impact on the representation of women as people's representatives in legislative institutions. In fact, the percentage of women's representation in legislative institutions can be traced in several election periods before reform [14].

Table 2. Representation of Women in the The House of Representatives of the Republic of Indonesia. from the period 1950 – 2019

Period	Woman		Men	
	Total	%	Total	%
1950 – 1955	9	3,8	236	96,2
1955-1956	17	6,3	272	97,3
Konstituante (1956-1959)	25	5,1	488	94,9
1971-1977	36	7,8	424	92,2
1977-1982	29	6,3	431	93,7
1982-1987	39	8,5	421	91,5
1987-1992	65	13	435	87
1992-1997	62	12,5	438	87,5
1997-1999	54	10	446	89,2
1999-2004	45	9	455	91
2004-2009	61	11,09	489	88,9
2009-2014	101	18,03	459	81,97
2014-2019	103	18,39	457	81,6
2019-2024	120	20,87	455	79,13

According to this data, the 2019 election saw the highest representation of women in Indonesian electoral history, particularly after reform. This proportion is required for women's representation in the legislature, even though it has not yet achieved the planned thirty percent, in order for The House Of Representatives members to be affirmed.

The rise in the number of representatives is inextricably linked to the confirmation of thirty percent of the nominations during the election. However, in the event of simultaneous elections in 2024, this percentage may decline following the implementation of General Election Commission Regulation 10/2023, which is the current constitutional discourse. General Election Commission Regulation, despite being a constitutional discourse centered on the 2024 simultaneous elections, is a legal product whose existence is recognized [15].

Efforts to strengthen the position of affirmative action in all election implementations will become a constitutional topic in Indonesia as the country prepares for simultaneous elections in 2024. This discussion arose from the laws altering General Election Commission

Regulation Number 20 of 2018 to General Election Commission Regulation Number 10 of 2023, where the issue is the existence of a system that rounds up the electability of legislative candidates, particularly female legislative candidates. In General Election Commission Regulation 20/2018, while computing the 30% number of female candidates, each electoral district generates a fractional number; if the two decimal places after the comma are fewer than 50, the calculation results are rounded up, and the rounding is done down through General Election Commission Regulation 10/2023. This rounding-down counting approach has become a legal issue in efforts to ensure female legislative representation.

Identifying the legal force of General Election Commission Regulation as a legal product with a recognized position requires reference to Indonesia's legal structure. This is one of the countries that follows this system of rules and regulations. This is evidenced by the 1945 Constitution's status as a legislative regulation with the highest hierarchy when compared to other statutes. Following the 1945 Constitution, each statutory regulation, including the Decree of the People's Consultative Assembly, Law/Government Regulation in Lieu of Law, Government Regulation, Presidential Regulation, Provincial Regional Regulation, and Regency/City Regional Regulation, was assigned a ranking under the Constitution [16].

The principle which is also used as a principle regarding the position of legislative regulations and their structure in the state has become a study that has emerged, especially in relation to Hans Kelsen's views regarding *Der Stufenbau Der Rechtsordnung* (level/hierarchy regarding legal norms) when discussing the validity of a norm as a source of law in the state. The validity of the General Election Commission Regulation has not actually been reflected in the formulation of Article 7 paragraph (1) of the Law on the Establishment of Legislative Regulations above.

Regulations on types or legal products recognized in Indonesia are then explained further in Article 8 paragraph (1) and paragraph (2) of the Law on the Establishment of Legislative Regulations. Pasal 8 ayat (1)

“Other types of Legislative Regulations other than those referred to in Article 7 paragraph (1) include regulations stipulated by the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, Ministers, bodies, institutions, or commissions of the same level established by Law or the Government by order of Law, Provincial”.

Article 8 paragraph (2)

"The Legislative Regulations as intended in paragraph (1) are recognized for their existence and have binding legal force as long as they are ordered by higher Legislative Regulations or are formed based on the authority”.

Based on the provisions of Article 8, the position of the General Election Commission as a commission whose existence is recognized and formed through law, which then produces special regulations, meets the qualifications as a legal product. The existence of a legal product in the form of General Election Commission Regulation is part of the laws and regulations relating to the implementation of the General Election Commission authority as an election organizer [17].

The validity of the General Election Commission Regulation is further confirmed by the authority of the Election Law, which gives the General Election Commission the authority to make legal regulations. Article 75 paragraphs (1) and (2) of Law Number 7 of 2017 concerning General Elections state that "to hold elections as regulated in this Law, the General Election Commission shall form General Election Commission Regulations and General Election Commission Decrees.

Specifically regarding General Election Commission Regulations, every General Election Commission Regulations determined by the General Election Commission is a form of

further implementation that has been previously regulated in higher statutory regulations, including efforts to affirm the representation of legislative candidates as well as a form of calculating the number of votes obtained in an electoral district.

One thing that needs to be considered is that the existence of a General Election Commission Regulations must be in line with the intentions that have been confirmed by higher regulations, in this case through the Election Law. As regulated in several election laws, efforts to affirm women's representation are absolute and must not be reduced or even diminished. However, the existence of the provisions of Article 8 paragraph (2) in General Election Commission Regulations 10/2023 reflects a setback in efforts to fulfill the affirmation of women's representation as legislative members in the 2024 elections [18].

It is clear that the presence of Article 8 paragraph (2), apart from changing efforts to affirm women's representation in elections, also violates Article 245 of the Election Law. Another logical consequence resulting from this article is that there will be a number of electoral districts where the number of women's representatives is less than thirty percent. This certainly backfired for political parties, which were required to fulfill the nomination quota of thirty percent women but, on the other hand, had to reduce it by rounding down the percentage of votes obtained [19].

According to the data released by Tulisdem, there are at least 38 The House Of Representatives electoral districts where women's representation will be reduced from the requirement of at least thirty percent. For a concrete example, calculating the percentage representation of women among a total of four candidates produces a figure of 1.2%. If rounded down as stipulated in Article 8 paragraph (2), a political party only needs to nominate one woman as a member of the legislature who is elected from four candidates. Even though one out of four legislative candidates is only equivalent to 25%, this certainly does not meet the 30% requirement as mandated by the Election Law. The same thing happened to the list of legislative candidates numbering 7, 8, and 11.

In this context, according to Titi Anggraini, there has been corruption regarding women's political rights in the nomination process. Meanwhile, in the author's view, the affirmation required in the Election Law, which is then retranslated through General Election Commission Regulations 10/2023, is a form of 'half-hearted affirmation' regarding the representation of women in occupying legislative institutions, so that when the General Election Commission Regulations is in conflict with higher statutory regulations, it is possible to cancel it through the General Election Commission Regulations material review process at the Supreme Court.

3.3 Enforcing the Affirmation of Women's Representation by Judicial Power Institutions

Countries that adopt a civil law legal system place their main legal system in the form of laws as the main source of law. This legal system tends to plan, systematize, and regulate daily problems as comprehensively as possible by forming legal rules as legislative products. Therefore, every statutory regulation as a legislative product is the most important part of a country's civil law, including the regulation of affirming women's representation, which is also regulated in election legal products [20].

A country that places legal products in the form of laws as its main source of law in theory and its regulatory system is formed as a unified whole without any conflict between one legal rule and another. However, in practice, it cannot be avoided that there will be conflicts between legal rules. According to Hans Kelsen, there is no absolute guarantee that lower norms correspond to higher legal norms. This is because the legal organs that form legal norms actually create conflicting norms, thereby allowing for inequality, which, in Hans Kelsen's terms, occurs as a conflict of legal norms at various levels.

This conflict of norms can also be seen in the inconsistency between the meaning of Article 245 of the Election Law and Article 8 paragraph (2) of General Election Commission Regulations 10/2023. Hierarchically, the Election Law has a higher position than the General Election Commission Regulations, and at the same time, the Election Law is a reference in regulating a General Election Commission Regulations, including the General Election Commission Regulations, which regulates the percentage of electability and counts the number of votes in the form of affirmations for female legislative candidate members in the election process [21].

This conflict of norms shows that there is a half-hearted affirmation, as mentioned by the author in the previous section. Therefore, efforts to maintain the affirmation of women's representation by submitting an application for testing the substance of the General Election Commission Regulations are a necessity

3.3.1 Decision of Judicial Review of General Election Commission Regulation Number 10 of 2023 by the Supreme Court

The concepts and methods of judicial review are used by two judicial institutions: the Supreme Court and the Constitutional Court. This study focuses on judicial review exercised with authority by the Supreme Court, rather than judicial review by the Constitutional Court, which is also known as constitutional review [22].

The power for judicial review in the sense of constitutional law is an authority given to the Supreme Court or other judicial institutions (such as the Constitutional Court) to cancel any action (doing or not doing) carried out by the legislative or executive, including canceling laws, on the grounds that the action is contrary to the constitution, so that this kind of judicial review authority becomes a 'protective fence' against the constitution.

Judicial review means the right of the judiciary to review a statutory regulation. The judge, as the court institution's executor, is responsible for carrying out the judicial review. Thus, judicial review is limited to the authority of court judges in specific matters in court.

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Judicial review is a form of the right to review a statutory regulation that is given power or authority to the judiciary. The implementation of the judicial review itself is carried out by the judge as the executor of the court institution. Thus, judicial review is only the authority of court judges in concrete cases in court.

Regarding the conflict of norms that occurred between General Election Commission Regulations and the Election Law and then became a constitutional discourse, an attempt to test it was then submitted by five applicants consisting of two private legal entities and three individual citizens. A material test was carried out on the provisions in 8 paragraph (2) General Election Commission Regulations 10/2023 which according to the applicant were in conflict with Article 27 paragraph (1) and Article 28H paragraph (2) of the 1945 Constitution of the Republic of Indonesia, Article 245 of the Election Law and was then submitted to the Supreme Court for review. validity of legal norms [23].

The submission of a General Election Commission Regulations judicial review is consistent with the constitutional authority granted by the Republic of Indonesia's 1945 Constitution, which states in Article 24 paragraph (1) that the Supreme Court has the authority to adjudicate at the cassation level, review statutory regulations against the law, and exercise other powers granted by the Constitution.

Jimly Asshiddiqie stated that efforts to analyze statutory regulations under the law in comparison to legislation being tried by the Supreme Court are efforts to test legality. The Supreme Court's examination limits the object being examined to statutory restrictions under the law, and the Supreme Court uses the law as its touchstone rather than the Republic of Indonesia's 1945 Constitution.

Such a construction not only demonstrates that the Supreme Court tests legal norms as a test of the legality of regulations, but it is also related to General Election Commission Regulations 10/2023, which has the potential to cause a conflict of norms in its regulation and becomes appropriate when submitted to the Supreme Court to test the validity of its norms. According to the Election Law, the Supreme Court resolves General Election Commission Regulations disputes within 30 working days of receiving the application.

As a result, the panel of judges reviewing the request for review should see the process of testing the substance of Article 8 paragraph (2) General Election Commission Regulations 10/2023 as an attempt to validate the affirmation of women's representation in election administration. As a result, the final decision is expected to cancel the provisions in Article 8 paragraph (2) of General Election Commission Regulations 10/2023 because they are inconsistent with higher-level regulations and deny the existence of efforts to affirm women's representation in Indonesian elections [24].

After going through the examination process by the panel of judges who adjudicated the application for testing General Election Commission Regulations 10/2023, through Decision No. 24/P/HUM/2023, the panel of judges chaired by Supreme Judge Irfan Fachrudin as chairman of the panel then granted the petitioners' request by stating that Article 8 paragraph (2) General Election Commission Regulations 10/2023 is contrary to the Election Law, so that the formulation in Article 8 paragraph (2) is then changed to "in the case of calculating the number of 30% of the number of female candidates, each electoral district produces a fractional number, rounding up is carried out".

In its consideration, the panel of judges was of the opinion that Article 8 paragraph (2) General Election Commission Regulations 10/2023 was contrary to Article 245 of the Election Law, which requires the list of prospective members of the The House Of Representatives, Provincial Regional Legislative Council, Regency/City Regional Legislative Council to contain women's representation of at least 30% of the number of seats in each electoral district, so it is declared not applicable to the general public. Through this decision, the Supreme Court ordered the General Election Commission, as the election organizer, to revoke Article 8, Paragraph 2, General Election Commission Regulations 10/2023.

3.3.2 . Reaffirming the Supreme Court's Decision Through MK Decision 125-01-08-29/PHPU.DPR-DPRD-XXIII/2024

The Supreme Court's Decision No.24/P/HUM/2023, which ordered the General Election Commission as the election organizer to cancel General Election Commission Regulations 10/2023, was not fully executed in practice. In this scenario, adjustments have been made to the General Election Commission Regulations, or no alterations have been made in preparation for the 2024 election. Although there have been different pressures from non-governmental organizations (NGOs), particularly those focusing on elections and women, such as the Parliamentary Women's Caucus, Luluden, and the community.

In its statement, the General Election Commission, through the Head of the Technical Division of the Indonesian KPU, Idham Holik, noted that the Supreme Court ruling that overturned PKPU 10/2023, which governs quotas for female legislative candidates, must be read at the level of prospective principles. This is due to the fact that the verdict establishes

new norms that will eventually become norms at the level of General Election Commission Regulations.

Following judgment No.24/P/HUM/2023, the General Election Commission issued Circular Letter No. 1075/PL 01 4-SD/05/2023 on Follow-up to the Supreme Court's judgment, which was addressed to the heads of political parties participating in the election. Aside from the fact that the measures to alter the article are time-consuming, the Supreme Court is involved. Furthermore, in response to the Supreme Court's judgment, the Hearing Meeting (RDP) between Commission II DPRRI, The General Election Supervisory Agency, General Election Commission DKPP, and the Ministry of Home Affairs decided not to amend General Election Commission Regulation 10/2023.

The actions adopted by the General Election Commission as the election organizer with input from various parties actually allow for full compliance with the Supreme Court decision for political parties. This becomes a concern when the Supreme Court decision plainly refers to the General Election Commission rather than political parties. Such criteria amounted to transferring authority to political parties to adopt or not implement the Supreme Court decision. This has the effect of not meeting the quota for female parliamentary candidates on the list of permanent candidates who will run in the general election..

According to data released by the Network for Democracy and Electoral Integrity (Netgrit), a member of the Coalition of Communities Concerned with Women's Representation, up to 17 political parties participating in the 2024 General Election or Election do not meet the Election Law's 30 percent quota for female legislative candidates. Only one party fits these criteria in all electoral districts.

In this context, the General Election Commission ignored violations of the election nomination mechanism established by the Election Law, even those decided by the Supreme Court. In practice, failure to meet the quota for legislative candidates as a way of affirming women's representation occurs not just among DCT candidates for The House of Representatives of the Republic of Indonesia members, but also among provincial and regency/city Regional Legislative Council members.

The failure to fulfill the affirmation regarding women's representation in the DCT for Provincial Regional Legislative Council member candidates carried out by political parties and legalized by the General Election Commission then became one of the disputes submitted by one of the parties to the Constitutional Court. In the Gorontalo 6 electoral district for the election of candidates for Provincial Regional Legislative Council members, there are several parties that do not fulfill the affirmation of representation for female legislative candidates.

This relates to exactly was then filed as a petition to the Constitutional Court for resolution in an election dispute. According to the applicant's petition, the failure to achieve 30% representation of women in the four political parties participating in the General Election in Electoral District 6 Gorontalo violates Article 248 of the Election Law. Furthermore, this has been upheld by the Supreme Court Decision No. 24/P/HUM/2023..

After conducting an examination and undergoing a trial process regarding the election dispute petition, the Constitutional Court through its decision granted the petitioner's petition in part by canceling General Election Commission Decree Number 360 of 2024 concerning Determination of Election results as long as it concerns the acquisition of votes for candidates for members of the Gorontalo Provincial Regional Legislative Council for Dapil 6 as well as for conducting voting, repeat at all polling stations in the Gorontalo Province 6 electoral district to fill in the Gorontalo Provincial Regional Legislative Council members by first ordering the political parties participating in the general election for Gorontalo Provincial Regional Legislative Council members in the Gorontalo Province 6 electoral district which do not meet the minimum requirements for female candidates to correct the list of candidates so that they meet women's representation of at least 30 percent.

In its considerations, the Constitutional Court explained that the General Election Commission's actions in deliberately ignoring Supreme Court Decision Number 24 P/HUM/2023 resulted in the non-fulfillment of the provisions for women's representation in the DCT in the Gorontalo Province Regional Legislative Council in Gorontalo Electoral District 6. The General Election Commission as the respondent as a state institution should understand and comply with the decision court, which in this case is Supreme Court Decision Number 24 P/HUM/2023, which has permanent legal force. The MK further explained that this action was not in line with "legal politics" towards gender equality and justice by paying attention to women's representation of at least 30 percent. However, referring to all statutory provisions, the phrases "at least 30%", "at least 30%", and "at least 30%" indicate or lead to 1 (one) thing, namely that female legislative candidate candidates must not be under the figure is 30 percent for each electoral district.

The introduction of Constitutional Court Decision No. 125-01-08-29/PHPU.DPR-DPRD-XXII/2024, which confirms the position of Supreme Court Decision No. 24 P/HUM/2023, demonstrates that judicial institutions engage in a 'layered' form of law enforcement to ensure the affirmation of women's representation. In this part, both the MK and the Supreme Court recognize the necessity of affirming women's representation in the election process in Indonesia [25].

The birth of the Constitutional Court Decision Number. 125-01-08-29/PHPU.DPR-DPRD-XXII/2024 which reaffirmed the position of the Supreme Court Decision No. 24 P/HUM/2023 shows the existence of a form of 'layered' law enforcement carried out by the judicial institution in ensuring affirmation of representation for women. In this section, both the Constitutional Court and the Supreme Court are equally aware of the importance of affirmation of women's representation in the General Election process in Indonesia. The inseparable part after the birth of the two decisions of the judicial institutions in Indonesia is the further strengthening of the principle of the rule of law adopted by Indonesia as formulated in the constitutional norms contained in Article 1 paragraph (3) of the 1945 Indonesian Constitution. The rule of law essentially aims to provide legal protection for the people, that legal protection for the people against government actions is based on two principles, the principle of human rights and the principle of the rule of law. Meanwhile, the goal of the state is to organize legal order. In a State of Law, all powers of its government apparatus are based on law. Everyone without exception must submit to and obey the law, only the law has power in that State (government not by man, but law = the rule of law). Thus, through the decisions of the Supreme Court and the Constitutional Court, it is intended to fulfill the right to affirmative action for women in the Election as part of the guarantee and fulfillment of citizens' basic rights within the framework of a state of law [26].

4 Conclusion

The affirmation of women's representation in holding elections in Indonesia increasingly shows positive developments, especially after reform and the birth of the election law in 2017. The state's efforts to accommodate women's representation through affirmative action policies have actually been accommodated in many countries, such as in South Korea with its electoral system, which is almost the same as Indonesia. However, the practice of affirming women's representation in holding elections in Indonesia became a discourse after the birth of General Election Commission Regulation 10/2023 which changed the method for calculating female legislative candidates to rounding down as regulated in Article 8 paragraph (2). Therefore, through Supreme Court Decision No. 24 P/HUM/2023 which annulled the substance of Article 8 General Election Commission Regulation 10/2023 which was also added to by Constitutional Court Decision No. 125-01-08-29/PHPU.DPR-DPRD-XXII/2024 which canceled the election results in the Gorontalo 6 electoral district because it

did not meet the figures for women's representation and at the same time ordered the General Election Commission to carry out re-elections, showing that there are efforts to uphold the affirmation of women's representation in holding elections in Indonesia through judicial institutions.

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