

***The Digest:***

*Journal of Jurisprudence and Legisprudence*  
Vol. 6 Issue 2 (2025) 175-204  
DOI: <https://doi.org/10.15294/digest.v6i2.37338>  
Available online since: June 30, 2024

THE DIGEST Journal of  
*Jurisprudence* &  
*Legisprudence* ®

# **Constitutional Court Decision No. 169/PUU-XXII/2024 and Efforts to Mainstream Gender in Political Representation on Parliament**

**Susi Dian Rahayu** ✉

Universitas Islam 45, Indonesia, susidianrahayu@gmail.com

**Arifudin**

Universitas Islam Assyaifiyah, Indonesia, arifudin.sh@gmail.com

✉ Corresponding email: susidianrahayu@gmail.com

---

## **Abstract**

Constitutional Court Decision Number 169/PUU-XXII/2024 is a new chapter in the struggle for gender mainstreaming in Indonesia through a legal approach. This study aims to analyse the significance of this decision as a progressive legal instrument to promote gender equality in legislative institutions. The research method uses normative juridice research. The findings reveal that this decision

reconstructs the Law No. 17 of 2014 concerning the People's Consultative Assembly, the People's Representative Council, the Regional Representative Council, and the Regional People's Representative Council (MD3 Law) with two major breakthroughs: first, it reinforces the phrase prioritising women's representation at the leadership level of the Council's Organs as an imperative command; second, it requires the proportional distribution of female members throughout the Council's Organs based on the principles of balance and equity. The implications of this ruling structurally transform the political landscape of parliament by preventing the domestication of women and opening up access to participation in all policy areas.

## Keywords

*Gender, Constitutional Court, Parliament*

## I. Introduction

Indonesia is a country that adheres to a democratic system that recognises the equal rights and sovereignty of its people, including in political matters, as stated in Article 27 of the 1945 Constitution. This article explains that men and women have equal status, both in the legal sphere and in government<sup>1</sup>. Therefore, it can be said that constitutionally, Indonesia is one of the countries that recognises the existence and presence of women in politics. Anne Philips, in her book entitled *The Politics of Presence*, states that women are best equipped to represent women's interests in the political world. The presence of

---

<sup>1</sup> Republik Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (Sekretariat Jenderal Mpr Ri, 2002)

women in political structures is necessary to provide political strength in society and to give meaning (influence) so that the policies produced by parliament are gender-responsive<sup>2</sup>.

Philips divides the presence of women in politics into three types: descriptive, substantive and transformative. This theory predicts that there is a very close relationship between descriptive representation and substantive representation.<sup>3</sup> Descriptive presence refers to the physical presence of women in political, economic and social institutions. Their presence symbolises the existence of women in these institutions in accordance with quota requirements. In other words, if descriptive representation (the number of women in parliament) increases, women's interests will also be increasingly voiced in parliament. Meanwhile, substantive presence is the presence of female representatives who strive to do their best to fulfil the wishes and desires of the people they represent. Furthermore, personal transformation is the impact of this representation on oneself, one's identity, meaning-making system, and worldview, which means that this personal transformation representation has an influence on changing oneself, one's role, and developing one's capacity in carrying out the function of one's presence.

However, in practice, fulfilling women's representation in politics is not easy. This is influenced by various factors, both internal and external to women themselves<sup>4</sup>. Internal factors originate from within women themselves, who feel they are not qualified enough to participate in politics, but these factors are also influenced by external factors such as negative stereotypes about women, as well as structural

---

<sup>2</sup> Phillips, Anne. *The politics of presence*. Clarendon Press, 1995.

<sup>3</sup> Ibid

<sup>4</sup> Rahayu, Susi Dian, and Chairunnisa Chairunnisa. "Gender and Development (GAD): Keterpilihan Perempuan dalam Pilkada Serentak 2015, 2017 dan 2018 di Provinsi Jawa Timur." *Jurnal Adhyasta Pemilu* 1.2 (2018): 85-99.

and cultural barriers that further limit and hinder women's representation<sup>5</sup>.

In several revisions, regulations related to affirmative action contained in both the Election Law and the Political Parties Law have been challenged several times in the Constitutional Court to strengthen the legitimacy of affirmative action for women's representation in politics. One of the challenges to further emphasise women's representation in politics was the challenge filed by the Indonesian Women's Coalition, the Association for Elections and Democracy (Perludem), the Kalyanamitra Foundation, and Titi Anggraini, an election practitioner and academic, which challenged Law No. 17 of 2014 on the MPR, DPR, DPD and DPRD and Law No. 2 of 2018 on the Second Amendment to Law No. 17 of 2014 (MD3 Law).

The review of the MD3 Law focused on several articles that were deemed to not accommodate women's representation in the determination of Council Organs (AKD), including those related to the filling of leadership positions in AKD. According to the Petitioners, Law No. 17 of 2014 did not accommodate women's representation in the determination of the Council's Organs at all, even though Law No. 27 of 2009 on MD3, specifically in Article 101 (paragraph 2), Article 106 paragraph (2) and several other articles have accommodated women's interests by including the clause 'with due regard to women's representation', as in Article 101 (paragraph 2) of Law No. 27 of 2009, which reads:

"The leadership of the Legislation Committee consists of one chairperson and a maximum of three deputy chairpersons elected

<sup>5</sup> Sabilla, Shafira Dewi, and Susi Dian Rahayu. "Implementation of Women's Representation Policy in the Recruitment of District Election Supervisory Committee (Panwascam) in Bekasi." *Proceedings of Sunan Ampel International Conference of Political and Social Sciences*. Vol. 1. 2023.

from and by the members of the Legislation Body based on the principle of deliberation to reach consensus and proportionality, taking into account the representation of women in accordance with the balance of the number of members in each faction”<sup>6</sup>

This article shows that Law No. 27 of 2009, before it was revoked and replaced by Law No. 17 of 2014, still took into account the perspective of women in the filling and distribution of council positions. However, after Law No. 17 of 2014 came into effect, the clause ‘taking into account the representation of women’ was removed. As a result, the filling of council positions was considered to not take into account women’s representation. In fact, one of the council organs that deals with women’s issues, namely Commission 8 of the Indonesian House of Representatives, had no women represented in its leadership. On 30 October 2025, the Constitutional Court granted the petitioners’ through Constitutional Court Decision Number 169/PUU-XXII/2024. This Constitutional Court ruling marks a new milestone in efforts to mainstream gender within parliamentary institutions. This study systematically analyses the implications of Constitutional Court Decision No. 169/PUU-XII/2024 in strengthening women’s representation in legislative institutions.

## II. Method

This research used normative juridical research methods. Normative juridical research is a method of legal research carried out by examining library materials or secondary data. This study was conducted to affirmative action policies and the condition of women’s representation in politics in parliament. This approach used a review of secondary data in the form of documents or literature, which is carried out by collecting information obtained through laws and regulations, written data, books,

---

<sup>6</sup> Article 101 (paragraph 2) of Law No. 27 of 2009

seminar results, research results, studies and other references, as well as searching data and information through websites related to the issues discussed in this research. The secondary data that have been obtained are analyzed qualitatively and then presented for the purpose of conclusions.

### III. Results and Discussion

#### ***Women's Representation in Parliament Following the Introduction of Affirmative Action Policies***

Ester Boserup, in her study entitled Women's Role in Economic Development<sup>7</sup>, called for women to be involved in development so that they could participate directly not only in the domestic sector but also in the public sector. The concept of Women in Development (WID) emphasised the involvement of women in the development process, in this case in the sphere of production. Women and men were considered to have the same qualities and capabilities in the production sector, both in agriculture and industry. After the WID concept was deemed to have various weaknesses, the concept of Gender and Development (GAD) emerged. The GAD concept aims to dismantle patriarchal culture, the barriers that separate men and women in various aspects such as social, economic, political, educational and environmental aspects. In this case, there are no longer restrictions on the domains of men and women; both have equal opportunities in various aspects of life according to their respective capacities and abilities. In this case, equality must be prioritised. Similarly, Lovenduski, in his book entitled 'Politics with a Female Face'<sup>8</sup>, states the importance of women's involvement in politics. However, Lovenduski acknowledges that women face serious obstacles to becoming political actors.

The obstacles faced by women in entering the political arena include, first, the fact that women have fewer resources needed to enter the political sphere. In general, women are poorer than men and tend not to be placed in positions that support political activities. Second, various

---

<sup>7</sup> Boserup, Ester, et al. *Woman's role in economic development*. Routledge, 2013.

<sup>8</sup> Lovenduski, Joni. *Politik berparas perempuan*. Kanisius, 2008.

lifestyle constraints mean that women have little time for politics. Family and other obligations that require full commitment, which are specifically carried out by women, have reduced their time to do other activities. Sometimes, in certain circumstances, women are often faced with conflicts between their roles and status. The third obstacle is that politics is always identified with a masculine face. Political tasks are categorised as male tasks, which prevents women from pursuing political careers and hinders political recruitment for those who want to appear in public<sup>9</sup>.

Meanwhile, Anna Philips explains that political representation focuses on the presence of interests and identities. Politics of Presence is a theory that challenges traditional ideas about political representation<sup>10</sup>. This theory argues that the physical presence of marginalised groups (such as women, ethnic, racial and religious minorities) in political institutions themselves is fundamental and irreplaceable. Therefore, women's representation in politics is necessary, which can be accelerated through affirmative action, among other things.

One policy to increase women's representation in politics in Indonesia is to accommodate affirmative action policies for women. The low number of women represented in politics, as reflected in the number of women in Parliament, has led to proposals for affirmative action policies for women's representation in Parliament. This policy was first included in Law No. 3 of 1999 on Political Parties, where one of the crucial points is Article 10, which states that political party membership should include at least 30% female representation. Although this article does not necessarily require the participation of women in political parties, the existence of this law is the first legitimisation of women's

---

<sup>9</sup> Ibid

<sup>10</sup> Phillips, Anne. "From a politics of ideas to a politics of presence." *Revista Estudos* (1995).

entry into politics. Then, in 2003, Law No. 12 of 2003 was passed as an effort to improve awareness of women's involvement in politics. Article 65 paragraph (1) states that 'Every political party participating in elections may nominate members of the DPR, Provincial DPRD, and Regency/City DPRD for each electoral district to take into account the representation of women of at least 30%.' However, this policy was not effective enough, as the clause 'may nominate' in the paragraph was interpreted as meaning that the article was only a "recommendation" and not a 'requirement' for political parties to nominate at least 30% female legislative candidates from the total number of legislative candidates nominated<sup>11</sup>.

The ineffectiveness of affirmative action policies in the 2004 legislative elections prompted various groups to urge the government and the House of Representatives to revise the articles related to affirmative action policies, which are contained in Law No. 2 of 2008 on Political Parties, requiring 30% representation of women in political party leadership from the central to district/city levels. In addition, it is also stipulated that legislative candidates must include at least 30% women, and that for every three candidates, there must be at least one female candidate (zipper system)<sup>12</sup>. In the 2014 elections, provisions regarding affirmative action policies were regulated in Law No. 8 of 2012 on Elections for the DPR, DPD, and DPRD in Article 56, with the same provisions as in previous elections, which were then continued with Law No. 7 of 2017 on General Elections, which not only regulates women's representation in political parties and candidacy, but also women in election administration, as illustrated in the following table:

---

<sup>11</sup> Arawi, Fadia Amellia. "Perbandingan representasi perempuan di parlemen Indonesia dan Filipina." *Politeia: Jurnal Ilmu Politik* 14.2 (2022): 74-85.

<sup>12</sup> Gaol, Anna Margret Lumban, et al. "Menyoal Data Representasi Perempuan di Lima Ranah." (2018).

**Table 1 Comparison of Affirmative Action Regulations in Indonesia**

No	Regulation	Crutial Point of Affirmative Action	Effect
1.	Law No. 3 of 1999 on Political Parties	Article 13: Political party membership shall endeavour to include at least 30% female representation (not yet mandatory, but consideration of female representation has begun).	Although women's representation in the House of Representatives in the 1999 elections was only 8.8% (closed proportional representation, determined by political parties), this law legitimised the importance of women's representation in politics, thereby opening up opportunities for further regulations related to affirmative action.
2.	Law No. 12 of 2003 on General Elections	This was the first time regulation about the 30% quota for	Women's electability 11.8% electoral system

		female candidates, but it was only a 'suggestion' to political parties to strive for 30% female representation. There were no sanctions for political parties that did not comply.	uses an open proportional system
3.	Law No 10 of 2008 on General Election	<p>a. Nomination quotas are mandatory for political parties (penalties apply for non-compliance)</p> <p>b. A zipper system is implemented (one female candidate for every three prospective candidates, to ensure that female candidates are not concentrated at the bottom of the list)</p>	<p>- In the 2009 elections, the number of women elected to the House of Representatives increased to 18%.</p> <p>In the 2014 elections, this number decreased to 17.3%.</p>
4.	Law No 7 of 2017 on General Election	<p>Maintain and reinforce the zipper system rule</p> <p>Article 10 regulates women's representation in the</p>	<p>a. In the 2019 elections, the percentage of women represented in</p>

		<p>Election Organiser, but only with the clause 'taking into account women's representation'.</p>	<p>Parliament reached 20.5%.</p> <p>b. In the 2024 elections, the percentage of women represented in Parliament reached 21.6%.</p>
--	--	---	--

Source: Data processed from various sources

Based on the table above, it is evident that regulations governing affirmative action have undergone fundamental changes in line with the times. For example, Law No. 12 of 2003 on Elections, one of whose articles recommended that political parties pay attention to the representation of women in election nominations, was later transformed into Law No. 10 of 2008 on Elections, which requires political parties to include at least 30% women in their nominations for Parliament. If a political party does not meet this nomination quota, it will be sanctioned by not being included in the elections in one electoral district that does not meet the female quota. After the implementation of the affirmative action policy in elections, the number of female representatives has increased significantly compared to previous elections, although it has not yet reached the 30% target. This is shown in the following table:

**Table 2: Election Results Before and After Affirmative Action**

Year	Number of Member Parliament	Number of Women Elected	Persentge
1955	272	17	6,25
1971	460	36	7,83
1977	460	29	6,30
1982	460	39	8,48
1987	500	65	13,00
1992	500	62	12,50
1997	500	54	10,80
1999	500	45	9,00
2004	550	61	11,09
2009	560	101	17,86
2014	560	97	17,32
2019	560	118	20,52
2024	580	127	21,90

Source: Data processed from various sources

Based on the table above, it can be seen that during the last two elections, namely the 2019 and 2024 elections, the number of women represented in the House of Representatives has increased significantly, reaching more than 20%. Although this has not yet reached the target set by the Affirmative Action Policy of 30%, this figure provides new hope for the potential representation of women in the future. One of the reasons why women's representation in Parliament has never reached 30% is because the Affirmative Action Policy in Indonesia only provides access to encourage women to run for office, while in the contestation process to obtain seats, women are left to compete in a free arena that is still very masculine. There are still inequalities in political strategies, access to information, and relationships with potential constituents, so

women's experiences must continue to be accumulated into a process of learning and political education for women<sup>13</sup>.

This is as stated by Mona Lena Krook<sup>14</sup>, who states that there are three types of affirmative action: The first type is party quotas, which give political parties access to nominate women in a certain percentage on their candidate lists. The second type is legislative quotas, which are somewhat similar to party quotas in that they provide access to nominations for women in a certain percentage. However, this is mandated for all political parties contesting through binding regulations. Meanwhile, the third type is reserved seats, which are somewhat different from the previous two, namely a form of guaranteeing a certain number or percentage of seats in parliament for women through electoral regulations. The first two types of gender quotas intervene more in the selection process because they are in the realm of the selection process, providing more representative choices. Meanwhile, the last type intervenes more in the results so that parliament has more representative representatives.

### ***Constitutional Court Decision No. 169/PUU-XXII/2024: Substance and Implications***

Although Indonesia has implemented affirmative action policies for more than 22 years, the representation of women in parliament has never reached 30%. Similarly, in the distribution AKD both in terms of membership and leadership, there has been no policy regulating women's representation in Council Organs. In fact, affirmative action is needed to

---

<sup>13</sup> Ardiansa, Dirga (2016) "Menghadirkan Kepentingan Perempuan dalam Representasi Politik di Indonesia," *Jurnal Politik*: Vol. 2: Iss. 1, Article 2.

<sup>14</sup> Krook, Mona Lena, and Pär Zetterberg. "Introduction: Gender Quotas and Women's Representation—New Directions in Research." *Gender Quotas and Women's Representation* (2017): 11-17.

ensure women's representation not only in terms of numbers but also in terms of substance. To date, women's representation in both membership and leadership positions in the AKD has not been evenly distributed. In fact, there are several leadership positions in the AKD that are not held by women, such as Commission VIII of the Indonesian House of Representatives, which is responsible for women and children's issues. The distribution of women's representation in the AKD is very important, especially in leadership positions, as it will oversee strategic issues related to the programmes being discussed that concern women. For example, when the Government and the House of Representatives are discussing the Labour Bill, the role of female members is crucial in advocating for the protection of female workers.

Table 3 : Gender Ratio in the Leadership of the Indonesian House of Representatives for the 2024-2029<sup>15</sup>

No	Division	number of leaders	number of women in leadership positions	Percentage
1.	Steering Committee	5	1	20%
2.	Commission I	5	0	0
3.	Commission II	5	0	0
4.	Commission III	5	1	20%
5.	Commission IV	5	1	20%
6.	Commission V	5	0	0
7.	Commission VI	5	1	20%
8.	Commission VII	5	3	60%

<sup>15</sup> Constitutional Court Decision No. 169/PUU-XXII/2024

9.	Commission VIII	5	0	0
10.	Commission IX	5	3	60%
11.	Commission X	5	3	60%
12.	Commission XI	5	0	0
13.	Commission XII	5	1	20%
14.	Commission XIII	5	1	20%
15.	Legislation Committee	5	0	0
16.	Budgeting Committee	5	0	0
17.	Committee for Inter-Parliamentary Cooperation	5	1	20%
18.	Parliamentary Affairs Committee	5	3	60%
19.	Public Account Committee	5	0	0
20.	Ethics Council	5	0	0
21.	Public Aspiration Committee	5	2	40%
Total		105	21	20%

Source: Data processed from Constitutional Court Decision No. 169/PUU-XXII/2024

Based on the above data, it is evident that the current composition of leadership positions in the AKD does not represent women proportionally in line with the current number of female members of the Indonesian House of Representatives. In fact, there are several AKD that do not have female representation in their leadership, such as Commission I, Commission II, Commission V, Commission

VIII, Commission XI, the Legislation Committee, the Budgetting Committee, the Public Account Committee, and the Ethics Council. Ironically, this is the case even in the AKD that specifically handle issues of women's empowerment and protection, namely Commission VIII of the DPR RI, which shows the lack of concern of the DPR RI and political parties in supporting gender mainstreaming in parliament.

Historically, efforts to mainstream gender in overseeing women's representation in AKD are not new. In 2009, Law No. 27 of 2009 on the MPR, DPR, DPD and DPRD regulated the filling of leadership positions in the AKD, through the phrase 'Based on the principle of deliberation to reach consensus and proportionality, taking into account the representation of women according to the balance of the number of members of each faction'<sup>16</sup>. Although this phrase is only a recommendation to take into account women's representation, Law No. 27 of 2009 has demonstrated good faith in mainstreaming gender in the distribution of AKD. However, after being amended through Law No. 17 of 2014 concerning the People's Consultative Assembly, the House of Representatives, the Regional Representative Council, and the Regional House of Representatives (DPRD), the phrase to take into account women's representation was removed. This became the background for the petitioners in case 169/PUU-XXII/2024 to file a judicial review of several articles in Law No. 17 of 2014 (MD3 Law).

**Table 4: Articles tested in Case 169/PUU-XXII/2024<sup>17</sup>**

No	Articles under test	Contents of the Article	Petition
----	---------------------	-------------------------	----------

<sup>16</sup> Law No. 27 of 2009 on the MPR, DPR, DPD and DPRD

<sup>17</sup> Constitutional Court Decision No. 169/PUU-XXII/2024

	Article 90 paragraph (2) of Law Number 17 of 2014	The number of members of the Steering Committee is a maximum of 1/10 (one tenth) of the total number of DPR members based on the balance of the number of members of each faction determined by the plenary session.	The members of the Steering Committee shall be a maximum of 1/10 (one tenth) of the total number of DPR members based on the balance of the number of members in each faction, including female representation based on the balance and equal distribution of the number of female members in each faction as determined by the plenary session.
	Article 96 paragraph (2) of Law Number 17 of 2014	The number of commission members is determined in a plenary session according to the balance and equal distribution of the number of members of each faction at the beginning of the DPR membership period, the beginning of the	The number of commission members is determined in a plenary session according to the balance and equal distribution of the number of members in each faction, including female representation based on the balance and equal distribution of the number of

		session year, and at each session period.	female members in each faction at the beginning of the DPR membership period, the beginning of the session year, and at each session period.
	Article 103 paragraph (2) of Law Number 17 of 2014	The number of members of the Legislative Committee is a maximum of 2 (two) times the number of commission members, which reflects the factions and commissions.	The number of members of the Legislative Committee is a maximum of 2 (two) times the number of commission members, which reflects the factions and commissions by including female representation based on balance and equal distribution of the number of female members in each faction.
	Article 108 paragraph (3) of Law Number 17 of 2014	The composition and membership of the Budget Agency as referred to in paragraph (1) consists of members from each commission selected by the commission	The composition and membership of the Budget Agency as referred to in paragraph (1) consists of members from each commission who are selected by the

		taking into account the balance between the number of members and the proposals of the factions.	commission by taking into account the balance of the number of members and proposals from the factions, including female representation based on the balance and equal distribution of the number of female members in each faction.
	Article 114 paragraph (3) of Law Number 17 of 2014	The number of Committee for Inter-Parliamentary Cooperation members is determined in a plenary session of the DPR according to the balance and equal distribution of the number of members of each faction.	The number of Committee for Inter-Parliamentary Cooperation members is determined in a plenary session of the DPR according to the balance and equal distribution of the number of members in each faction, including female representation based on the balance and equal distribution of the number of female members in each faction.
	Article 120 paragraph (1)	The DPR determines the composition and	The DPR determines the composition and

	of Law Number 17 of 2014	<p>membership of the Council's of Ethics, which consists of all factions, taking into account the balance and equal distribution of the number of members of each faction at the beginning of the DPR membership period and the beginning of the session year.</p>	<p>membership of the Council's of Ethics, which consists of all factions, taking into account the balance and equal distribution of the number of members of each faction, including female representation based on the balance and equal distribution of the number of female members in each faction at the beginning of the DPR membership period and the beginning of the session year.</p>
	Article 151 paragraph (2) of Law Number 17 of 2014	<p>The maximum number of Parliamentary Affairs Committee members is 25 (twenty five) people based on the proposal of the commission and faction based on the balance and equal distribution of the number of members</p>	<p>The maximum number of Parliamentary Affairs Committee members is 25 (twenty five) people based on the proposal of the commission and faction based on the balance and equal distribution of the number of members of each faction in the</p>

		of each faction in the commission as determined in a plenary session of the DPR.	commission, including female representation based on the balance and equal distribution of the number of female members in each faction as determined in the DPR plenary session.
	Article 157 paragraph (1) of Law Number 17 of 2014	The DPR determines the composition and membership of special committees based on the balance and equal distribution of the number of members of each faction.	The DPR determines the composition and membership of special committees based on the balance and equal distribution of the number of members in each faction, including female representation based on the balance and equal distribution of the number of female members in each faction.
	Article 427E paragraph (1) letter b of Law Number 2 of 2018	The leadership of the commission, Legislation Committee, Budgetting Committee, Inter-Parliamentary Cooperation, Council	The leadership of the commission, Legislation Committee, Budgetting Committee, Inter-Parliamentary Cooperation, Council

	<p>of Ethics, and Parliamentary Affairs Committee consists of 1 (one) chairperson and a maximum of 4 (four) deputy chairs, who are appointed from and by the members of the commission, Legislation Committee, Budgetting Committee, Inter-Parliamentary Cooperation, Council of Ethics, and Parliamentary Affairs based on the principle of deliberation for consensus and proportionally according to the balance of the number of Committee members of each faction.</p>	<p>of Ethics, and Parliamentary Affairs Committee consists of 1 (one) chairperson and a maximum of 4 (four) deputy chairs, who are appointed from and by the members of the commission, Legislation Committee, Budgetting Committee, Inter-Parliamentary Cooperation, Council of Ethics, and Parliamentary Affairs Committee based on the principle of deliberation for consensus and proportionally according to the balance of the number of members of each faction with female representation of at least 30% (thirty percent).</p>
--	---	---

Source: Data processed from Constitutional Court Decision No. 169/PUU-XXII/2024

Based on the above data, it is known that, in general, the articles tested by the Constitutional Court are those related to the distribution of membership of the AKD with regard to women's representation, so that there is no accumulation or vacancy of women's representation in the council's organs. In addition, the petitioners also challenged Article 427E paragraph (1) letter b of Law Number 2 of 2018<sup>18</sup>, which relates to the composition of leadership positions in the AKD by accommodating female representation of at least 30% of the total leadership positions in the Council's Organs. Referring to the petition, it can be assumed that if the leadership of the AKD consists of five people, then two seats are allocated for women.

The importance of equal distribution of women in the membership of the AKD is expected to safeguard issues and policies that are pro-women. As is well known, in a democratic country, women must be involved as subjects of development, not merely as objects of development.<sup>19</sup> This means that in making any policy, women must be placed as subjects in the formulation of that policy, including in the formulation of regulations<sup>20</sup>.

In response to the petitioners, the Constitutional Court ruled that the guarantee of affirmative action policies for women is not an

---

<sup>18</sup> Constitutional Court Decision No. 169/PUU-XXII/2024

<sup>19</sup> Rahayu, Susi Dian, and Chairunnisa Chairunnisa. "Gender and Development (GAD): Keterpilihan Perempuan dalam Pilkada Serentak 2015, 2017 dan 2018 di Provinsi Jawa Timur." *Jurnal Adlyasta Pemilu* 1.2 (2018): 85-99.

<sup>20</sup> Putra, Dimas Wahyu Pratama. "Dinamika Implementasi Kuota Minimal 30% Perempuan dalam Alat Kelengkapan Dewan: Isu Gender Token Representative dan Solusi Keadilan Representasi Pasca Putusan MK No. 169/PUU-XXII/2024."

ordinary policy, but a constitutional mandate, based on Article 28H paragraph (2) of the 1945 Constitution<sup>21</sup>, which reads ‘every person shall have the right to receive facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice’. The Constitutional Court interpreted that ‘special treatment’ in this article is the constitutional basis for temporary affirmative action to correct structural inequalities and achieve substantive equality, in this case, equality for women in politics. In addition, the Constitutional Court stated that women, in the context of their involvement in politics, are one of the groups that require special protection and advancement to overcome the systemic impact of patriarchal culture and the history of marginalisation experienced by women.

Therefore, in its ruling, the Constitutional Court granted the petitioners' lawsuit based on various considerations, including that the lawsuit was a form of continuation of efforts to realise women's representation in politics, the first step of which had begun with the policy of fulfilling a 30% quota in political party management as regulated in Law No. 2 of 2008 on Political Parties. Then, there is the policy of nominating at least 30% women in the DPR and DPRD elections. According to the Constitutional Court, a balanced number of women must also be reflected in all parliamentary bodies. The presence of women in politics, as theorised by Anna Philips<sup>22</sup>, in each council organ with a focus on specific areas will further add value and vibes to the thinking with a female perspective. For example, in Commission I, which oversees Defence, Security, Communication and Foreign Affairs, the presence of women as leaders and members will provide insights from a female perspective when discussing these issues.

---

<sup>21</sup> Undang-Undang Dasar 1945

<sup>22</sup> Phillips, Anne. *The politics of presence*. Clarendon Press, 1995.

Constitutional Court Decision Number 169/PUU-XXII/2024 has had a tremendous impact on efforts to improve the legal, political and social systems related to gender mainstreaming in political representation. Legally, this ruling will serve as the highest confirmation that affirmative action is not only permitted but required by the constitution, specifically Article 28H paragraph (2) of the 1945 Constitution. This will strengthen the legal basis for quota policies in various other sectors. Politically, the leadership map and composition of the AKD will undergo shifts in line with the Constitutional Court's ruling. In addition, political parties, as gatekeepers, will be forced to reform themselves. They can no longer simply fulfil the 30% quota for female candidates on paper, but must seriously place their female cadres in strategic positions within their factions and the House of Representatives. The recruitment and regeneration of female politicians will become more mature.

Stereotypes about women will also shift with the presence of a significant number of women in strategic positions in the House of Representatives, which will shape public perception that women are indeed capable of leading and contributing in all fields. This will break down deep-rooted gender stereotypes. The Constitutional Court's ruling has also become a front line in efforts to strengthen the women's and civil society movements. This ruling is a monumental victory for women's movements and civil society organisations such as the Indonesian Women's Coalition, Perludem, Kalyanamitra and other women's activists who have long fought for women's equality.

#### **IV. Conclusion**

Constitutional Court Decision Number 169/PUU-XXII/2024 can be concluded that this decision is a significant constitutional breakthrough for gender mainstreaming in parliament. Substantively,

the Constitutional Court emphasised that affirmative action for women is an imperative constitutional mandate, not merely a voluntary policy. This ruling reconstructs the MD3 Law in two main ways: it reinforces the phrase ‘prioritising women’s representation’ at the leadership level of the AKD as an obligation, and it mandates the proportional distribution of female members in all council organs to prevent domestication.

The impact of this ruling will transform the political landscape of parliament structurally and culturally. With an end to the practice of stacking women in certain committees, a gender perspective will be integrated into the entire spectrum of policy-making, from defence to finance. This change in composition will enable the creation of more inclusive and gender-responsive policies, while breaking down patriarchal culture by normalising women’s leadership in strategic fields.

However, the effectiveness of this ruling depends on its implementation and enforcement at the practical level. The main challenge lies in the political will of political parties and members of the House of Representatives to realise this constitutional mandate, as well as the continued vigilance of civil society to ensure that the phrases ‘prioritise’ and ‘proportional distribution’ are not diminished in meaning in implementing regulations and everyday political practice. Thus, this decision becomes a strong legal foundation for realising a gender-sensitive and representative parliament.

## V. References

Adeni, S., & Harahap, M. A. (2017). Komunikasi Politik Dan Keterwakilan Perempuan Dalam Arena Politik. *Jurnal PERSPEKTIF Komunikasi, Program Studi Ilmu Komunikasi Dan Magister Ilmu Komunikasi Fisip Universitas Muhammadiyah Jakarta*, 1(2), 7.

Arawi, Fadia Amellia. "Perbandingan representasi perempuan di parlemen Indonesia dan Filipina." *Politeia: Jurnal Ilmu Politik* 14.2 (2022): 74-85.

Ardiansa, Dirga (2016) "Menghadirkan Kepentingan Perempuan dalam Representasi Politik di Indonesia," *Jurnal Politik*: Vol. 2: Iss. 1, Article 2.

Boserup, Ester, et al. *Woman's role in economic development*. Routledge, 2013.

Gaol, Anna Margret Lumban, et al. "Menyoal Data Representasi Perempuan di Lima Ranah." (2018).

Lovenduski, Joni. *Politik berparas perempuan*. Kanisius, 2008

Krook, Mona Lena, and Pär Zetterberg. "Introduction: Gender Quotas and Women's Representation—New Directions in Research." *Gender Quotas and Women's Representation* (2017): 11-17.

Phillips, Anne. *The politics of presence*. Clarendon Press, 1995.

Phillips, Anne. "From a politics of ideas to a politics of presence." *Revista Estudos* (1995).

Putra, Dimas Wahyu Pratama. "Dinamika Implementasi Kuota Minimal 30% Perempuan dalam Alat Kelengkapan Dewan: Isu Gender Token Representative dan Solusi Keadilan Representasi Pasca Putusan MK No. 169/PUU-XXII/2024."

Rahayu, Susi Dian, and Chairunnisa Chairunnisa. "Gender and Development (GAD): Keterpilihan Perempuan dalam Pilkada Serentak 2015, 2017 dan 2018 di Provinsi Jawa Timur." *Jurnal Adhyasta Pemilu* 1.2 (2018): 85-99.

Sabilla, Shafira Dewi, and Susi Dian Rahayu. "Implementation of Women's Representation Policy in the Recruitment of District Election Supervisory Committee (Panwascam) in Bekasi." *Proceedings of Sunan Ampel International Conference of Political and Social Sciences*. Vol. 1. 2023.

.

Law:

Republik Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (Sekretariat Jenderal Mpr Ri, 2002)

Constitutional Court Decision No. 169/PUU-XXII/2024

Undang-Undang Nomor 17 Tahun 2014 tentang MPR, DPR, DPD dan DPRD (MD3)

Undang-undang Nomor 2 Tahun 2018 tentang Perubahan Kedua atas Undang-Undang Nomor 17 Tahun 2014 tentang MPR, DPR, DPD dan DPRD (MD3)

Undang-undang Nomor 2 tahun 2008 tentang Partai Politik

Undang-undang Nomor 12 Tahun 2003 tentang Pemilihan Umum Anggota DPR, DPD dan DPRD

Undang-undang Nomor 7 Tahun 2017 tentang Pemilihan Umum

\*\*\*

### **DECLARATION OF CONFLICTING INTERESTS**

The authors declare that there are no conflict of interest in the publication of this article. This mean that the authors have no financial, personal, and relationship with any parties that influence the presentation of data and research results.

### **FUNDING INFORMATION**

This research was conduct independently by the researcher without any support or financial funding from any party or stakeholder

### **ACKNOWLEDGMENT**

The authors thank to anonymous reviewers for their valuable comments and highlights.

**Gouverneur c'est prévoir**