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HASIL PENILAIAN SEJAWAT SEBIDANG ATAU *PEER REVIEW*
KARYA ILMIAH : PROSIDING

Judul Artikel : **"QUOTA LAW'S FOR WOMEN IN POLITICS: IMPLEMENTATION IN INDONESIA"**

Jumlah Penulis : **1 orang**

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Semarang, 23 JUN 2021

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Reviewer 1

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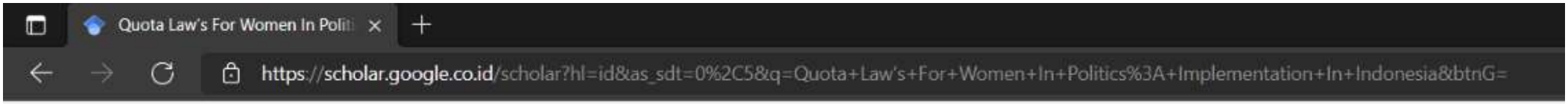

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Quota Law's For Women In Politics: Implementation In Indonesia

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Sejak 2020
Sejak 2017
Rentang khusus...

Urutkan menurut relevansi
Urutkan menurut tanggal

sertakan paten
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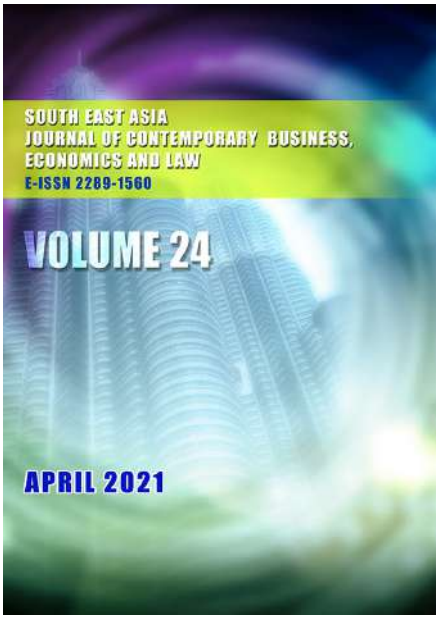

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QUOTA LAW'S FOR WOMEN IN POLITICS: IMPLEMENTATION IN INDONESIA

Ani Purwanti

ABSTRACT

In 2003 the issue regarding women's participation in politics specifically in the legislative about to start to be regulated in the act about political parties and legislative general elections which is adopting the affirmative action principle the determination of the quota of 30% for women. Affirmative action as 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 then regulated 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 especially regulating about the gender equality on recruitment of the political party and its management which 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).

Women quota is a system which its main purpose is to set percentage minimum representation for men and women, to ensure a balance through the presence of men and women in politics. The fundamental reason on the application of the quota system is to address the inequality issue caused by law and culture in the community. Ever since, the implementation of 30% of women's quota in the fields of politics generating 11.3% representation of women in the general elections in 2004, and 2009 general elections produced 18.04% representation of women in parliament (DPR), 16.0% representation of women in provincial parliaments (DPRD province), and 12.0% representation of women in regency/city parliaments (DPRD kabupaten/kota). The general elections in April 2014 produced 17.80 % representation of women in parliament (DPR). These research using qualitative method by using legal and previous election document as primary resources accompanied by some empirical cultural data.

Political parties as the main stakeholders that related to the woman participation should have a clear agendas to achieve the ideal condition of woman representation in political field from the level of caderization, recruitment, political education for woman, that have a clear impact both on the quality and quantity on the woman politician. The Maximalization of the supra structure and infrastructure institution, and even the grass-root political movement and woman movement from NGO's. Eventough patriarchal culture is still give an impact to the stakeholders such as political party and the voters include women itself become the main factor in the optimalization of woman participation number in Indonesia.

Key words: women's quota, legislative, Indonesia

1. Introduction

Since the rise of women movement after long-silence from 1965-1970, Woman right discourse has entered a new agenda: to set their aspiration not only in grass-root movement, but also on public-policy political area. But since the patriarch gene has deeply rooted in Indonesian's culture, how this goal should be achieved? Still long way to go to reach the answers, but at least, the legal set of affirmative action start from 2003 should be examined, how those special measure has its impact toward woman empowerment on political area, toward annihilation of sexual inequality.

Human rights issues has been seen as serious discourse since the establishment of Indonesian Constitution[1]. The memory of the debates is well preserved on large historical meeting at *Dokuritu Zyunbi Tyoosakai* or Institute Investigator for Efforts Preparation of Indonesian Independence (known as BPUPKI in Indonesian) on July 15 1945. The meeting was fiercely talking about the concept of human right principle in 1945 Constitution.[2]

The result of the debates can be seen on the Preambule of the Constitution, especially on the 4th paragraph:

"*That verily independence is the right of all nations and therefore the occupation in the world should be abolished because it is not in accordance with the spirit of humanity and spirit of justice*".

[1] Satya Arinanto, *HAM dalam Transisi Politik di Indonesia*, 3rd Prints, (New York: Center for the Study of Constitutional Law, Faculty of Law, University of Indonesia 2008), pp. 8.

[2] On that council, future president Soekarno on his speech was defending not only that human rights principles must be written in Constitution but also contain the spirit of independence based on communal spirit and his rejection toward liberalism "Gentlements! What we want to achieve is social justice! What grondwet used and written about freedom of speech, freedom to gather, if sociale rechtvaardigheid itself does not exist? What is the used of such grondwet if it cannot fulfill stomach of he starving people? Grondwet which contains " droit de l'homme et du citoyen " cannot eliminate starvation of the poor who about to die. If we relly serious building a country based on the spirit of communalities, principles of helping each other, gotong royong dan social justice, so get each thoughts of individualism and liberalism away,". Later on, Soekarno despite his well-known love affair also have a significant influence towards women rights, he wrote Sarinah, a book inspired by his maid. Sarinah contain Soekarno's view about marriage, women right to education, women and family economical analysis etc. This book, maybe the first book in Indonesia that talk about emancipation. Under his government, Indonesia also ratified the 1969 UN Woman Political Rights Convention. Also under his government, women debates among groups (Gerwani, Perwari, Wanita Katolik, Fathayat, etc) is such a common things. At that time, the first decade of new born state were rise within the women issues debates which soon disappear during Soekarno aftermath on 1965 and transition of power which bring Soeharto with his military-represif government take order until 1998. See Saskia E. Weiringa. *Sexual Slander and tge 1965/66 Mass Killings in Indonesia : Political and Methodological Considerations.* Journal of Contamporary Asia. Routledge, New York & London

WHAT LEGAL MEASURES SHOULD ASEAN APPLY TO HELP THE ROHINGYA?

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ABSTRACT

Human rights are inherent in all individuals, regardless their nationality. Based on this notion, this paper discusses the protection of human rights among the Rohingya, a group of Muslims which has been based in Myanmar for a long time. In theory, the Rohingya's individual rights should be respected; however, in reality this does not happen, as they are considered stateless under the Burma Citizenship Law of 1982. As a result of this, they have over recent years suffered human rights abuses. Because veto powers at the United Nations Security Council often prevent human rights interventions proceeding, in this paper the Rohingya issue will be discussed from a regional or Association of Southeast Asian Nations (ASEAN) perspective, while referring to international law. The authors question two points. The first is the status of the Rohingya as ASEAN people, as examined through provisions in the Charter of the Association of Southeast Asian Nations (the ASEAN Charter). The other question relates to how ASEAN might protect the Rohingya's human rights in the future. To answer these questions thoroughly, the study compares the principles of non-interference, as enshrined in both Article 2(4) of the ASEAN Charter and Article 4(h) of the Constitutive Act of the African Union. The latter legal instrument, unlike the ASEAN Charter, opens the door for interventions to take place in very serious situations. However, the principle of non-interference is considered a cornerstone of the ASEAN way, and so is a difficult principle to challenge. Moreover, the mandates given by the ASEAN Inter-governmental Commission on Human Rights (AICHR) are limited. This paper explores another way in which the Rohingya might be protected; a concept known as the responsibility to protect (RtoP). This norm has been adopted by all the ASEAN member states; therefore, the authors recommend that ASEAN apply the RtoP principle to protect the human rights of the Rohingya.

Key words: Rohingya, ASEAN, ASEAN Peoples, Principle of non-interference, Responsibility to Protect

1 Introduction

One of the purposes of the Association of Southeast Asian Nations (ASEAN) is to promote and protect human rights. However, its role in the case of the Rohingya in Myanmar has been limited thus far because they, as stateless, have suffered human rights abuses. This paper aims to uphold their human rights. It focuses only on the potential solution to this human rights issue within the ASEAN context, meaning it does not address solutions at the national and global levels. The paper is divided into five parts. After this introduction, the second part discusses the Rohingya in more detail, in order to understand their situation and the problems they face. Then, in the third part, the paper claims that the obstacles to ASEAN resolving this issue are created by two key points, (i) the principle of non-interference, and (ii) a lack of power within the ASEAN Intergovernmental Commission on Human Rights (AICHR). In the fourth section, the paper suggests further possible solutions to the problem by exploring and analyzing the right of intervention and the Responsibility to Protect Principle (RtoP), and in the last section presents the authors' conclusion.

2 The Rohingya: Their persecution and status

This section discusses the Rohingya, the persecution they suffer and their status in Myanmar and ASEAN.

2.1 The Rohingya and problems related to the Burma Citizenship Law of 1982

The Rohingya are part of a Muslim ethnic group who have been living for many generations in Rakhine State (formerly known as Arakan State), in the western part of Myanmar. Where the Rohingya come from has been a controversial issue over a long period in Myanmar. It is widely accepted by the Government of Myanmar (GOM) that the Rohingya are Bengali Muslims originally from Bangladesh, and the GOM also claims the group is living unlawfully within Myanmar's territory.[1]

Due to the GOM's stance, in 1982 it passed the Burma Citizenship Law, in which only eight national races are recognized as Burmese citizens.[2] The Rohingya are not one of these eight national groups, in fact, in the law they are branded as "foreigners".[3]

[1] Nehginpao Kipgen, (2013). Conflict in Rakhine State in Myanmar: Rohingya Muslims' Conundrum. *Journal of Muslim Minority Affairs*, 33, .4.
[2] Burma Citizenship Law of 1982 art. 3: <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=3ae6b4f71b> (accessed 19 October 2014).
[3] *Ibid.* art. 2(e) "Foreigner" means a person who is not a citizen or an associate citizen or a naturalized citizen.

RE-THINKING BINDING MEDIATION IN COMMERCIAL DISPUTES IN NIGERIA.

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ABSTRACT;

The modern investments and commercial transactions is largely depended on the need to protect and preserve relationships and to minimise wastage including time, thus growth of the business or commerce is paramount. Business men today are mindful of the fact that disputes and conflict in commercial relationships or agreements are inherent and imminent, therefore resort to litigation to resolve the disputes is not desirable. Consequently business men resort to an Alternative means of resolving their disputes amicably, without acrimony or ill feelings. This is not unconnected with their experience over the years in litigation and it's unsatisfied and inconveniences as a result. The preference and desire to settle disputes through alternative means is increasing and popular in Nigeria. One of the available process for resolving disputes amicably is Mediation, and this study seeks to determine the efficacy, potency and sufficiency of mediation as an alternative to litigation. And to further expand the frontier of discourse in Mediation literature to suggest an enforceable regime of all mediation settlements, perhaps mediation is rather more friendly, consensual, free and flexible. The theoretical disposition of this study is based on the proposition that underscored the central theme of the research and the need to fill in the existing gap in the available literature.

Key words: mediation, enforcement, commercial disputes, legal framework, Nigeria

1- INTRODUCTION:

Mediation is one of the process available within the "ADR" framework, its preference and prominence is increasingly amazing, and its potency as a means of resolving disputes among other mechanism is outstanding.[1] Recently considerable attention by both scholars and business men towards finding an alternative means of resolving disputes within the business and commercial environment is unprecedented, mainly due to formalised and procedure entrenched system of litigation that seriously affected the just and quick dispensation of justice.[2] Mediation on the other hand has many advantages which includes cost effectiveness, private, consensual and delay free[3].

Mediation seek to forged an amicable settlement and foster peace and friendships between the disputing parties, it is facilitated by a neutral third party who is appointed by the disputing parties and whose function is to help, facilitate, create an enabling landscape for negotiation of the conflict which will culminate in to a settlement agreement between the disputing parties. Conflict are inevitable in commercial relationships and an improved investment climate is essential to economic growth development, thus the nature of the legal system is key factor in assessing good investment climate, and the focal point of concern in the assessment of the legal system is the available disputes resolutions mechanism is effective, affordable, transparent and stable.[4]

This study has note with dismay that in spite of positive attributes of mediation is still remain within the private realm of the disputing parties, the implication therefore is that mediation is able to achieve all its advantages and benefit subject to sincerity, willingness, and submission of both disputants. And even though they submit one can withdraw before agreement is reached or even where it is reached a party can nevertheless rescind the agreement. This study astonishingly interrogate this reality after mediation has commenced and concluded a party on flimsy excuse raised issues of technicalities and seek interpretation in court, and the disputes surfer set back which the disputing parties sought to avoid ab initio. This study will converse an argument that

[1] Lukman, A.A, "Enhancing Sustainable Development by Entrenching Mediation Culture in Nigeria", in *Journal of Law, Policy and Globalization*, vol.21, (2014), pp.19-27, available at <http;www.iiste.org> visited on February 21, 2015.
[2] Ibid, Lukman, A.A, at 19
[3] Brown,H, and Marriott, A, *ADR Principles and Processes,* Sweet and Maxwell, London, (1993), p,19
[4] Rhodes-vivour, A, Arbitration and Alternative Disputes Resolution as Instruments for Economic Reform, available at <http;www.lawguru.com,htl> visited on January 27, 2015