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Women's Executive Leadership in Indonesian Democracy: Normative Gaps, Affirmative Policy Reconstruction, and Perspectives from National Law and Maqāṣid al-Sharīʿah

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Abstract: Indonesia's constitution guarantees women equal political rights, yet women remain scarcely present in executive office, the 30 percent affirmative quota under Law Number 7 of 2017 concerning General Elections covers only legislative candidacy, and Muslim scholars still debate the legitimacy of women's public leadership. This normative legal (library) study analyzes the legal position of female executive leadership under that law, examines the gap between normative equality and women's political representation, assesses the issue through maqāṣid al-sharīʿah, and reconstructs the required affirmative action policy. It employs statutory, historical, conceptual, and comparative approaches to primary, secondary, and tertiary legal materials analyzed descriptively and analytically through legal interpretation and deductive reasoning. The findings show that the law imposes no gender requirement for executive candidacy, so women and men hold equal constitutional standing, but its quota stops at legislative nomination, leaving a normative gap. In Islamic law, female executive leadership is an ijtihādiyyah matter: classical jurists such as al-Māwardī required maleness for the highest office, whereas contemporary scholars foreground competence, trustworthiness, justice, and public benefit. Tested against the five classical maqāṣid, Jasser Auda's systems approach, and textual, methodological, empirical, and positive-law objections, restricting competent and trustworthy women undermines rather than protects the purposes of Islamic law. The study proposes a measurable affirmation model: an aggregate nomination obligation per party plus at least 30 percent women among internally screened aspirants, enforced through graduated sanctions, verification by the General Elections Commission, supervision by the Election Supervisory Body, and time-limited evaluation, aiming at substantive rather than merely numerical representation.

Keywords: Female Leadership, Executive Office, Indonesian Democracy, Maqāṣid al-Sharīʿah, Affirmative Action.

Abstrak: Konstitusi Indonesia menjamin kesetaraan hak politik laki-laki dan perempuan, tetapi perempuan masih sangat sedikit menduduki jabatan eksekutif, kuota afirmatif 30% dalam Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan

Umum hanya berlaku untuk pencalonan legislatif, dan legitimasi kepemimpinan publik perempuan masih diperdebatkan di kalangan ulama. Penelitian hukum normatif (library research) ini bertujuan menganalisis kedudukan hukum kepemimpinan eksekutif perempuan dalam undang-undang tersebut, menelaah kesenjangan antara kesetaraan normatif dan representasi politik perempuan, mengkajinya melalui maqāṣid al-syarīʿah, dan merumuskan rekonstruksi kebijakan afirmatif. Pendekatan yang digunakan ialah perundang-undangan, historis, konseptual, dan komparatif terhadap bahan hukum primer, sekunder, dan tersier yang dianalisis secara deskriptif-analitis melalui penafsiran hukum dan penalaran deduktif. Hasil penelitian menunjukkan bahwa undang-undang tersebut tidak mensyaratkan jenis kelamin bagi pencalonan jabatan eksekutif, tetapi kuota afirmatifnya berhenti pada pencalonan legislatif sehingga menyisakan kesenjangan normatif. Dari perspektif hukum Islam, kepemimpinan eksekutif perempuan merupakan persoalan ijtihādiyyah: ulama klasik seperti al-Māwardī mensyaratkan laki-laki bagi kepemimpinan tertinggi, sedangkan ulama kontemporer mengedepankan kompetensi, amanah, keadilan, dan kemaslahatan. Diuji dengan lima maqāṣid klasik, pendekatan sistem Jasser Auda, serta keberatan tekstual, metodologis, empiris, dan hukum positif, pembatasan akses perempuan yang kompeten dan amanah justru mencederai tujuan syariat. Penelitian ini mengusulkan model afirmasi terukur berupa kewajiban pencalonan agregat per partai dan paling sedikit 30% bakal calon hasil penjaringan internal adalah perempuan, ditegakkan melalui verifikasi KPU, pengawasan Bawaslu, sanksi bertahap, dan evaluasi berbatas waktu, demi representasi substantif, bukan sekadar angka.
Kata Kunci: Kepemimpinan Perempuan, Jabatan Eksekutif, Demokrasi Indonesia, Maqāṣid al-Syarīʿah, Kebijakan Afirmatif.

A. Introduction

Democracy requires equal rights to vote and stand for election, so its quality is also judged by how far women can genuinely reach the highest public offices. Indonesia is a state based on the rule of law and Pancasila, committed to justice and inclusive representation, including for women, who make up roughly half of the population. This is reinforced by Articles 27(1), 28D(3), and 28H(2) of the 1945 Constitution of the Republic of Indonesia, which concern equality before the law, equal opportunity in government, and affirmative measures, respectively,[1] as well as by Law No. 39 of 1999 on Human Rights and Indonesia's ratification of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) through Law No. 7 of 1984.[2]

These formal guarantees, however, have not been matched by actual representation. Law No. 7 of 2017 on General Elections sets no gender-based eligibility

[1] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, UUD NRI Tahun 1945 § Pasal 27 ayat (1), Pasal 28D ayat (3), dan Pasal 28H ayat (2).

[2] Undang-Undang Republik Indonesia Nomor 7 tentang Pengesahan Konvensi Mengenai Penghapusan Segala Bentuk Diskriminasi terhadap Wanita (Convention on the Elimination of All Forms of Discrimination Against Women), Lembar Negara Republik Indonesia (1984) Nomor 29.

requirement for presidential and vice-presidential candidates (Article 169), yet its minimum 30% quota for women (Articles 245 and 246) governs only legislative candidacy and has no counterpart for executive offices.[3] In the 2024 simultaneous regional elections, women won only 45 of the 545 gubernatorial, regency, and mayoral positions, about 8.3%,[4] and hold about 21.9% of the seats in the House of Representatives (DPR) after the 2024 general election (127 of 580).[5] The distance between normative guarantees and actual representation suggests non-legal barriers, including male dominance and gender-insensitive candidate recruitment within parties, high campaign costs, patriarchal norms, and religious interpretations that question women's suitability for leadership.[6]

In Islamic law the issue is complicated by divergent scholarly opinions. Classical scholars such as al-Māwardī in *al-Aḥkām al-Sulṭāniyyah* require *al-dhukūrah* (maleness) for *al-imāmah al-ʿuẓmā* (supreme leadership), relying on Qur'an 4:34 on *qiwāmah* (men's responsibility and authority within the family) and on a hadith narrated by al-Bukhārī about a people who entrust their affairs to a woman.[7] Contemporary thinkers, among them al-Qaraḍāwī, Mernissi, and Wadud, re-read these sources contextually and historically, and cite Queen Bilqis (Qur'an 27:23–44) as evidence that women can lead competently.[8] This *ijtihādī* debate centers on whether women may lead, whereas maqāṣid al-sharīʿah assesses rulings by their objectives: justice, public welfare (maṣlaḥah), and the protection of human dignity. Drawing on the five classical objectives and Jasser Auda's systems approach, eligibility can be judged by competence, trustworthiness, justice, and capacity to realize the public good rather than by gender alone.

Earlier studies have mostly examined women's representation in the legislative sphere, or have approached women's leadership from a single perspective, either *fiqh*

[3] Undang-Undang Nomor 7 Tahun 2017 tentang Pemilihan Umum, Lembaran Negara Republik Indonesia (2017) Nomor 182, Pasal 169, Pasal 245, dan Pasal 246.

[4] MB Dewi Pancawati, "Potret Keterpilihan Perempuan di Pilkada 2024," Kompas.id, 7 Januari 2025, https://www.kompas.id/artikel/potret-keterpilihan-perempuan-di-pilkada-2024.

[5] "Keterwakilan perempuan di DPR 2024--2029 tertinggi sepanjang sejarah - ANTARA News," diakses 14 Oktober 2026, https://www.antaranews.com/berita/5039761/keterwakilan-perempuan-di-dpr-2024-2029-tertinggi-sepanjang-sejarah.

[6] Sofa Marwah dan Oktafiani Catur Pratiwi, "Representasi Perempuan pada Pemilihan Kepala Daerah: Ikhtisar Pilkada Serentak di Jawa Tengah 2020," *Politika: Jurnal Ilmu Politik* 13, no. 1 (April 2022): hlm. 101–18, https://doi.org/10.14710/politika.13.1.2022.101-118.

[7] al-Māwardī, Abū al-Ḥasan ʿAlī ibn Muḥammad ibn Ḥabīb, *Al-Aḥkām al-Sulṭāniyyah wa al-Wilāyāt al-Dīniyyah*, 1 ed. (Cairo: Dār al-Ḥadīth, 2006).

[8] Fathiyaturrahmah Fathiyaturrahmah, Safrudin Edi Wibowo, dan Taha Ramadan Ibrahim Zaghloul, "Representation Of Woman Leader In The Qur'an (Power-Knowledge Relations In The Discourse On Surah An-Naml 20-44)," *Jurnal Ushuluddin* 32, no. 2 (September 2024): hlm. 186, https://doi.org/10.24014/jush.v32i2.31597.

siyasah (Islamic political jurisprudence) or positive law.[9] Table 1 maps the most relevant studies, selected through a criteria-based literature search (see Research Methods), to identify the research gap and the article's distinct contribution.

Table 1. Mapping of Previous Studies, the Article's Position, and Its Novelty

Study	Focus and Approach	Position and the Novelty of the Present Article
Syahruddin and Rohman (2025)[10]	Kepemimpinan perempuan di ruang publik dalam ketatanegaraan Indonesia dan hukum Islam; fenomenologis.	Does not examine executive candidacy requirements or the design of affirmative measures under Law No. 7 of 2017.
Putra and Mufid (2023)[11]	Kepemimpinan perempuan dalam negara modern menurut *maqāṣid al-sharīʿah*; perbandingan al-Qaradhawi dan al-Buthi.	Focuses on scholarly thought; no link to candidacy regulations or affirmative policy recommendations.
Fajar dan Sugirman (2024)[12]	Kepemimpinan perempuan dalam Islam: perspektif HAM dan *maqāṣid* syariah.	Does not link the analysis to candidacy provisions or to individual executive offices.
Aspinall, White, and Savirani (2021)[13]; Wardani and Subekti (2021)[14]	Keterwakilan perempuan dan dinasti politik dalam pemilu legislatif 2019.	Focuses on the legislative sphere; does not examine executive office or its Islamic legal perspectives.
Marwah and Pratiwi (2022)[15]	Representasi perempuan dalam Pilkada serentak 2020 di Jawa Tengah.	Descriptive analysis of a single province; no normative framework for affirmative measures in executive candidacy.

[9] Hilal Ardiansyah Putra dan Moh. Mufid, "Kepemimpinan Perempuan dalam Konsep Negara Modern Perspektif Maqasid Al-Syariah: Studi Komparatif Pemikiran Yusuf Al-Qardhawi dan Said Ramadhan Al-Buthi," *Jurnal Indonesia Sosial Teknologi* 4, no. 3 (Maret 2023): hlm. 305–20, https://doi.org/10.59141/jist.v4i3.593.

[10] Erwin Syahruddin dan Adi Nur Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law," *Al-Mazaahib: Jurnal Perbandingan Hukum* 13, no. 1 (Juni 2025): hlm. 98–113, https://doi.org/10.14421/al-mazaahib.v13i1.4189.

[11] Putra dan Mufid, "Kepemimpinan Perempuan dalam Konsep Negara Modern Perspektif Maqasid Al-Syariah."

[12] Fajar dan Andi Sugirman, "Kepemimpinan Perempuan Dalam Islam Perspektif Hak Asasi Manusia Dan Maqashid Syariah," *Qaumiyyah: Jurnal Hukum Tata Negara* 5, no. 1 (Juni 2024): hlm. 79–108, https://doi.org/10.24239/qaumiyyah.v5i1.142.

[13] Edward Aspinall, Sally White, dan Amalinda Savirani, "Women's Political Representation in Indonesia: Who Wins and How?," *Journal of Current Southeast Asian Affairs* 40, no. 1 (April 2021): hlm. 3–27, https://doi.org/10.1177/1868103421989720.

[14] Sri Budi Eko Wardani dan Valina Singka Subekti, "Political Dynasties and Women Candidates in Indonesia's 2019 Election," *Journal of Current Southeast Asian Affairs* 40, no. 1 (April 2021): hlm. 28–49, https://doi.org/10.1177/1868103421991144.

[15] Marwah dan Catur Pratiwi, "Representasi Perempuan pada Pemilihan Kepala Daerah."

Study	Focus and Approach	Position and the Novelty of the Present Article
Vasandani, Nugraha, and Susantijo (2022)[16]	Tindakan afirmatif atas hak politik perempuan dalam konstitusi Indonesia.	Does not address individual executive offices or the perspective of maqāṣid al-sharīʿah.
Piliyanti and Alwiyah (2026)[17]	Kepemimpinan perempuan pada lembaga filantropi Islam; ukuran *maqāṣid* dan keadilan gender.	Examines philanthropic institutions, not executive office or electoral affirmative action.

Source: Literature cited in this article.

The mapping reveals three gaps. First, no study has jointly examined the legal legitimacy of executive office under Law No. 7 of 2017, the design gap in affirmative action, and current representation data. Second, maqāṣid-based studies generally affirm women's leadership without systematically testing opposing arguments or linking the analysis to candidacy regulations. Third, no framework separates normative recommendations from an operational scheme, with enforcement mechanisms and constitutional limits, for individually elected executive offices.

The article thus contributes (1) a legal-conceptual argument that equal formal eligibility without affirmative measures at the candidacy stage is a normative gap rather than merely a socio-cultural problem; (2) an affirmative action model for nominating individually elected executive officeholders; and (3) a method that integrates national law and maqāṣid al-sharīʿah through systematic testing of counterarguments.

This article addresses four research questions: (1) What is the legal status of women, and the legal legitimacy of women's executive leadership, under Indonesian political law, particularly Law No. 7 of 2017? (2) What gap exists between normative equality and women's political representation in executive office? (3) How should women's executive leadership be assessed from the perspective of *maqāṣid al-sharīʿah*? (4) What affirmative action policy reconstruction is required?

B. Research Methods

This study is normative legal research using a library-based approach, since it examines normative gaps, particularly the confinement of the affirmative quota under Law No. 7 of 2017 to legislative candidacy, and divergent interpretations of women's leadership in Islamic law; field observation is therefore unnecessary.[18] The statutory

[16] Malika Rajan Vasandani, Dwi Putra Nugraha, dan Susi Susantijo, "Affirmative Action Study on the Political Rights of Women in the Indonesian Constitution," *Constitutional Review* 8, no. 1 (Mei 2022): hlm. 62, https://doi.org/10.31078/consrev813.

[17] Indah Piliyanti dan Noor Alwiyah, "Female Leadership of Islamic Philanthropic Institutions in Indonesia," *Ulumuna* 29, no. 2 (Januari 2026): hlm. 851–75, https://doi.org/10.20414/ujis.v29i2.1293.

[18] Annisa Meidaniasari, "Teori Hukum Normatif Dalam Perspektif Aliran Pemikiran Neo Kantian," *Lex Renaissance* 10, no. 1 (Juni 2025): hlm. 1–29, https://doi.org/10.20885/JLR.vol10.iss1.art1.

approach examines the 1945 Constitution, Law No. 7 of 2017, Law No. 39 of 1999, and Law No. 7 of 1984. The historical approach traces the development of women's political representation. The conceptual approach draws on theories of the rule of law, legal politics, leadership, and *maqāṣid al-sharīʿah*. The comparative approach sets Indonesian positive law against Islamic law (classical *fiqh siyasah*, contemporary interpretations, and *maqāṣid al-sharīʿah*) on four criteria: leadership requirements, grounds of legitimacy, women's access to public office, and the objectives pursued, with CEDAW as a secondary point of comparison. Primary legal materials comprise the Qur'an (4:34 and 27:23–44), a hadith narrated by al-Bukhārī, the legislation above, and relevant court decisions; secondary materials are books and scholarly journal articles; tertiary materials are dictionaries and encyclopedias. They were gathered through library and documentary study, searching Scopus, Google Scholar, national journal portals, and official government websites. Sources were included if they bore directly on a research question, came from an official source or reputable academic journal, and, for journal articles, were published between 2021 and 2026 (classical works and primary legal materials excepted); sources not verifiable against official documents were excluded. The materials were analyzed descriptively and analytically in four stages: (1) describing the legal provisions on affirmative action and candidate nomination; (2) identifying the gap between them and data on women's representation; (3) assessing women's executive leadership against the five classical objectives of Islamic law and the six features of Jasser Auda's systems approach, using grammatical, systematic, historical, and teleological interpretation and deductive reasoning; and (4) formulating a reconstruction of affirmative action policies.

C. Discussion and Research Results

Women's Legal Status and the Legal Legitimacy of Executive Leadership

Women's status in Indonesia's constitutional democracy rests on three layers of protection: constitutional guarantees under Articles 27(1), 28D(3), and 28H(2) of the 1945 Constitution; human rights guarantees under Law No. 39 of 1999; and Indonesia's international commitment under CEDAW. Together these recognize women as full legal subjects. Regulation of women's representation developed gradually: Law No. 7 of 1953 contained no affirmative provisions, while Law No. 12 of 2003 encouraged at least 30% women on legislative candidate lists, strengthened by Law No. 10 of 2008 and Law No. 8 of 2012 through the zipper system.[19] These developments have not reached the

[19] Alvinda Putri Ruriana, Adhi Cahya Fahadayna, dan George Towar Ikbal Tawakkal, "Political Parties and Women's Representation in the Indonesian Parliament 2009-2019," *Politik Indonesia: Indonesian Political Science Review* 8, no. 2 (September 2023), https://doi.org/10.15294/ipsr.v8i2.45916.

executive branch, even though the CEDAW Committee encourages States parties to extend affirmative action to all levels of decision-making.[20]

Law No. 7 of 2017 adopts *universal suffrage* and formal equality: every citizen who meets the requirements may vote and stand for election regardless of gender. Neither Article 169, which sets the eligibility requirements for presidential and vice-presidential candidates, nor Articles 6(1) and 7 of the 1945 Constitution prescribes any gender requirement.[21] The quota under Article 245 and the alternating placement mechanism under Article 246, by contrast, do not apply to the offices of President, Vice President, Governor, Regent, or Mayor.[22] The presidential nomination threshold under Article 222 (20% of DPR seats or 25% of the national valid vote) was previously regarded as an indirect barrier to women's candidacy[23] but was declared unconstitutional in Constitutional Court Decision No. 62/PUU-XXII/2024.[24] Its annulment removed a legal barrier but did not automatically widen women's access, because the power to nominate presidential and vice-presidential candidates remains with political parties.

Normative Gaps and Women's Political Representation

The gap between normative guarantees and outcomes is most evident in executive office. Table 2 distinguishes indicators that media reports often conflate; the figures come from official institutions as reported by the media and may vary across sources.

Table 2. Women's Representation in the DPR and Regional Elections by Indicator

Indicator	Period	Figures	Notes on Definitions and Sources
Women in the DPR (% of seats)	2004; 2009; 2014;	11,8; 17,9; 17,3; 20,9; 21,9	Based on occupied seats. In 2024, women held 127 of the 580 seats.[25]

[20] "UU No. 7 Tahun 1984 tentang Pengesahan Konvensi Mengenai Penghapusan Segala Bentuk Diskiriminasi Terhadap Wanita (Convention on The Elimination of All Forms of Discrimanation Against Women) - JDIH BPK," Database Peraturan | JDIH BPK, diakses 14 Oktober 2026, https://peraturan.bpk.go.id/Details/46978/uu-no-7-tahun-1984, Pasal 4 ayat (1).

[21] UU Pemilu Pasal 169; Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, UUD NRI 1945 Pasal 6 ayat (1) dan Pasal 7.

[22] UU Pemilu, Pasal 245 dan Pasal 246.

[23] Aziza Aulya, Andi Pangerang Moenta, dan Hamzah Halim, "Perempuan dan Politik: Menakar Kebijakan Affirmative Action dalam Sistem Kepartaian," *Amanna Gappa*, 23 November 2022, hlm. 126–36, https://doi.org/10.20956/ag.v30i2.24214.

[24] Enika Maya Oktavia, *PUTUSAN Nomor 62/PUU-XXII/2024 DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA MAHKAMAH KONSTITUSI REPUBLIK INDONESIA,* https://www.mkri.id/public/content/persidangan/putusan/putusan_mkri_11344_1735807848.pdf.

[25] GoodStats Data, "Representasi Perempuan di DPR Terus Naik, Namun Belum Capai 30%," GoodStats Data, diakses 14 Oktober 2026, https://data.goodstats.id/statistic/representasi-perempuan-di-dpr-terus-naik-namun-belum-capai-30-ESl5c; Pancawati, "Potret Keterpilihan Perempuan di Pilkada

Indicator	Period	Figures	Notes on Definitions and Sources
	2019; 2024		
Women candidates for regional head or deputy regional head	2024 regional elections	309 individuals (Ministry of Home Affairs); 331 of 3,104 candidates, or 10.7% (Bawaslu).[26]	The Ministry of Home Affairs' 19.92% figure appears to use candidate pairs (about 1,553) as its denominator and should not be compared directly with the proportion of women elected.
Women elected as governors, regents, and mayors	2024 regional elections	45 of 545 regions (about 8.3%): 2 governors, 34 regents, and 9 mayors; including deputy regional heads, 109 individuals.	Ministry of Home Affairs data; Bawaslu reported 43 women among 481 regional heads. Scope requires verification against KPU data.
Women serving as regional heads	2023	Approximately 4% (24 regions)	KPPPA data; the indicator and reference period differ from those in the preceding row.[27]

Table 2 yields two findings. First, women's share of DPR seats rose from about 11.8% to 21.9% over five general elections but has never reached 30%, despite the candidacy quota. Second, women made up about 8.3% of those elected as regional heads in 2024. The data do not prove that the absence of affirmative measures causes women's low electoral success, since electoral systems, candidate capacity, and sociocultural factors may also matter; they merely point to a gap that calls for normative legal analysis.

At the formal level, Law No. 7 of 2017 satisfies the principles of the rule of law, since it contains no provision distinguishing male from female candidates. Under the substantive conception of the rule of law, however, treating unequal parties equally may perpetuate injustice, so affirmative measures are needed to address structural inequalities, in line with the social justice ideal of the fifth principle of Pancasila.[28] From the perspective of legal politics, democratic political configurations tend to produce responsive legal products,[29] and Law No. 7 of 2017 is largely responsive, as its

2024"; "Keterwakilan perempuan di DPR 2024--2029 tertinggi sepanjang sejarah - ANTARA News"; (KPPPA), "Harteknas 2023."

[26] ANTARA News, "Wamendagri: Partisipasi Perempuan Naik di Pilkada 2024"; ANTARA News, "Bawaslu Harap Keterwakilan Perempuan dalam UU Pemilu dan Pilkada Diperkuat," diakses 15 Oktober 2026.

[27] (KPPPA), "Harteknas 2023."

[28] Vasandani, Nugraha, dan Susantijo, "Affirmative Action Study on the Political Rights of Women."

[29] Moh Mahfud M. D., *Politik Hukum Di Indonesia*, Ed. rev (Jakarta: Rajawali Pers, 2009).

legislative quota shows, yet that responsiveness has not reached executive office, possibly because of elite compromises that favor male candidates. Male dominance within parties, campaign costs, and voter perceptions shaped by political patriarchy and certain religious interpretations widen it further.[30]

Constitutional Court Decision No. 22–24/PUU-VI/2008 annulled Article 214(a)–(e) of Law No. 10 of 2008 and established election by the highest number of votes, without abolishing the 30% nomination quota; it shows that a constitutionally defensible form of affirmative action operates at the nomination stage rather than guaranteeing seats or office.[31] Supreme Court Decision No. 24 P/HUM/2023 annulled Article 8(2) of General Elections Commission Regulation No. 10 of 2023, which had rounded down the calculation of the 30% minimum for women legislative candidates, thereby affirming that technical regulations may not lower the standard set by statute.[32] Constitutional Court Decision No. 128/PUU-XXIV/2026, pronounced on May 25, 2026, conditionally declared Article 245 unconstitutional insofar as it was not interpreted to require candidate lists to include at least 30% women and to require the General Elections Commission (KPU) at every level to disqualify participating parties from electoral districts where this requirement was not met. DPR leaders reportedly said the decision would be incorporated into the revision of the General Elections Law.[33] The decision is binding precedent on sanctions but is used here only by analogy, because disqualification in elections for single-person executive offices may eliminate electoral choices and therefore requires a more proportionate approach.

Women's Executive Leadership from the Perspective of Maqāṣid al-Sharīʿa

In classical *fiqh siyasah* (Islamic political jurisprudence), al-Māwardī defines the *imāmah* as succession to the function of prophethood in safeguarding religion and

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[30] Sally White dkk., "Voting against Women: Political Patriarchy, Islam, and Representation in Indonesia," *Politics & Gender* 20, no. 2 (Juni 2024): hlm. 391–421, https://doi.org/10.1017/S1743923X23000648.

[31] Raihan Muhammad, "Peranan dan Problematika Mahkamah Konstitusi sebagai Positive Legislature di Tengah Regresi Demokrasi Indonesia," *Lex Renaissance* 10, no. 1 (Juni 2025): hlm. 65–93, https://doi.org/10.20885/JLR.vol10.iss1.art3.

[32] Perludem, "Putusan Mahkamah Agung Nomor 24 Tahun 2023 terhadap Uji Materi 8 (2) PKPU 10/2023 (Pencalonan 30% Perempuan Tiap Dapil DPR/DPRD)," *Perkumpulan untuk Pemilu dan Demokrasi*, 8 September 2023, https://perludem.or.id/id/putusan-mahkamah-agung-nomor-24-tahun-2023-terhadap-uji-materi-8-2-pkpu-10-2023-pencalonan-30-perempuan-tiap-dapil-dpr-dprd/.

[33] Kompas Cyber Media, "Putusan MK soal Caleg Perempuan Disebut Jadi Bagian dari Revisi UU Pemilu," KOMPAS.com, 28 Mei 2026, https://nasional.kompas.com/read/2026/05/28/11050441/putusan-mk-soal-caleg-perempuan-disebut-jadi-bagian-dari-revisi-uu-pemilu; "MK Tegaskan Sanksi Bagi Parpol yang Tak Penuhi Syarat Kuota Perempuan," Mahkamah Konstitusi RI, diakses 14 Oktober 2026, https://mkri.id/berita/mk-tegaskan-sanksi-bagi-parpol-yang-tak-penuhi-syarat-kuota-perempuan-25116.; Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 128/PUU-XXIV/2026, dibacakan 25 Mei 2026, https://s.mkri.id/public/content/persidangan/putusan/putusan_mkri_14322_1779698707.pdf.

managing worldly affairs. He requires *al-dhukūrah* (maleness) for *al-imāmah al-ʿuẓmā* (supreme leadership), relying on Qur'an 4:34 on *qiwāmah* (men's responsibility and authority within the family) and on the hadith narrated by Abū Bakrah and recorded by al-Bukhārī. Mernissi examines the chain of transmission and historical context of the Abū Bakrah hadith, which is linked to the Battle of the Camel, and thereby questions its validity as a universally applicable proof-text.[34] Wadud interprets *qiwāmah* as describing a socio-economic function rather than asserting the universal superiority of men.[35] Al-Qaraḍāwī distinguishes *wilāyah ʿāmmah* (general authority) from *wilāyah khāṣṣah* (specific authority), arguing that any prohibition would at most concern the classical conception of general authority rather than modern executive leadership, in which governmental functions are differentiated.[36] Many contemporary interpreters also cite Queen Bilqis, who displays wisdom and consultative leadership without being explicitly condemned for ruling.[37]

To avoid a predetermined conclusion, the five fundamental objectives of Islamic law formulated by al-Ghazālī and developed by al-Shāṭibī, the *al-kulliyyāt al-khams* (five universal objectives), are examined individually against potential counterarguments (Table 3).[38] Because this framework of the five *ḥifẓ* (preservation objectives) may produce a partial and atomistic analysis, its findings are cross-examined using Auda's systems approach.

Tabel 3. Testing Maqāṣid-Based Arguments against Anticipated Objections

Maqṣad	**Argument Under Examination**	**Anticipated Objection**	**Outcome of the Assessment**
Ḥifẓ al-nafs	Denying competent women access to the highest public offices undermines their dignity (Qur'an 17:70).	Human dignity does not automatically entail a right to hold the highest public office.	Sustained: The issue is gender-based exclusion from access, not entitlement to an outcome.
Ḥifẓ al-ʿaql	Gender-based restrictions waste intellectual and managerial potential.	Individual capacities vary; equality of	Sustained with limitations: The argument rests on

[34] Fatima Mernissi, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*, 11. print (Cambridge, Mass.: Perseus Books, 2002).

[35] Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, 2nd ed (New York: Oxford university press, 1999).

[36] Fajar dan Sugirman, "Kepemimpinan Perempuan dalam Islam."

[37] Ahmad Ashimulloh, Kholifatul Ummami, dan Wahidul Anam, "Perempuan dalam Politik: Reinterpretasi Al-Qur'an Perspektif Hermeneutika Muhammad Arkoun," *Jurnal Semiotika-Q: Kajian Ilmu al-Quran dan Tafsir* 5, no. 1 (April 2025): hlm. 349–72, https://doi.org/10.19109/jsq.v5i1.26285.

[38] Jasser ʿAuda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, ed. oleh Jasser ʿAuda (London: The International Inst. of Islamic Thought, 2008).

Maqṣad	**Argument Under Examination**	**Anticipated Objection**	**Outcome of the Assessment**
		capacity cannot be generalized.	competence-based selection, not women's superiority.
Ḥifẓ al-nasl	Women's leadership may yield policies responsive to families, children, and maternal and child health.	This is an empirical claim that may not hold universally.	Accepted as a hypothesis: To be assessed with the indicators in Table 4.
Ḥifẓ al-māl	Competent leaders manage public finances responsibly; excluding women narrows the leadership pool.	There is no evidence that women are more trustworthy than men.	Claim narrowed: The argument concerns the leadership pool, not women's superiority.
Ḥifẓ al-dīn	Just and trustworthy leadership embodies Islam as *raḥmatan lil-ʿālamīn* (a mercy to all creation).	Textual evidence, including Qur'an 4:34 and the Abū Bakrah hadith, supports the majority classical position.	Sustained as an ijtihād-based argument: The classical prohibition concerned al-imāmah al-ʿuẓmā, which combined political and religious authority; executive offices in a democracy are elected, term-limited, and subject to oversight, so some scholars read the textual evidence contextually.

Jasser Auda conceives of Islamic law as a dynamic, open, and multidimensional system with six features, used here as a cross-check. Cognitive nature means that classical interpretations are shaped by the cognitive contexts of the *mujtahid* (independent legal scholar) and are therefore relative rather than absolute. Wholeness requires a holistic reading of the sources, including Qur'an 33:35, which affirms equal spiritual reward for men and women.[39] Openness calls for engagement with empirical findings on leadership. Interrelated hierarchy places justice and the public good above a particularistic reading of the Abū Bakrah hadith. Multidimensionality requires attention to both individual and collective interests. Purposefulness evaluates a provision by its capacity to realize the objectives of Islamic law. Auda also shifts the orientation of *maqāṣid* from the preservation of human interests toward human

[39] ʿAuda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

development, including political participation.[40] No single feature justifies the conclusion alone, but together they give no indication that gender-based restrictions on access to modern executive office serve the objectives of Islamic law.

Two further objections are examined separately. The methodological objection holds that *maqāṣid* and *maṣlaḥah* may be invoked too loosely to override textual evidence. Two conditions answer it. First, *maqāṣid* is used to weigh (*tarjīḥ*) competing opinions within the scope of *ijtihād*, not to set aside definitive textual evidence (*dalīl qaṭʿī*); on the argument advanced here, no definitive *naṣṣ* prohibiting women from public leadership has been identified. Second, the claimed public benefit must be open to evaluation. The positive-law objection maintains that affirmative action conflicts with meritocracy, party autonomy, and voter sovereignty. The response is to design measures that operate only at the candidate-selection and nomination stages, keep competence as a selection criterion, guarantee no electoral outcome, and remain temporary in accordance with Article 4(1) of CEDAW.[41] Categorical rejection overlooks the modern executive context, and unconditional permissibility ignores the textual objections; the position taken here instead adopts criteria of justice and competence that classical *fiqh siyasah* also recognizes. The argument would be undermined if evidence showed that affirmative action in candidate nomination lowered leadership quality, or if definitive textual evidence prohibiting women's public leadership were established. These conditions mark the limits of the article's claim.

The four-criteria comparison shows both convergence and divergence. Both systems converge on leadership requirements and objectives (competence, trustworthiness, and public welfare). Their grounds of legitimacy differ: positive law derives legitimacy from popular sovereignty exercised through elections, while Islamic law assesses it by conformity with *maqāṣid al-sharīʿah*. On access to public office, positive law imposes no gender-based prohibition, whereas classical Islamic jurisprudence restricts access to the highest leadership position, although contemporary interpretations permit women to hold it.[42] No Qur'anic *naṣṣ* explicitly prohibits women from public leadership, just as neither the 1945 Constitution nor Law No. 7 of 2017 does; the disagreement stems from interpretations of certain hadiths and the opinions of some classical scholars.

[40]ʿAuda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.
[41] JDIH BPK, "UU No. 7 Tahun 1984," Pasal 4 ayat (1).
[42]Fajar dan Sugirman, "KEPEMIMPINAN PEREMPUAN DALAM ISLAM PERSPEKTIF HAK ASASI MANUSIA DAN MAQASHID SYARIAH," Juni 2024.

Reconstructing Affirmative Action Policies for Women's Executive Leadership

a. Extending Affirmative Action from the Legislative to the Executive Branch. The 30% quota under Articles 245 and 246 is designed for multi-seat legislative lists[43] and cannot simply be transplanted to single-person executive offices. A more realistic approach is to impose obligations at the nomination stage rather than quotas on seats, consistent with Article 28H(2) of the 1945 Constitution.[44] In maqāṣid terms, such an extension advances ḥifẓ al-nafs and justice by affirming women's dignity as equal citizens and removing barriers unrelated to competence, consistent with Auda's shift from protection to human development.[45]

b. Affirmative Action in Recruitment and Candidate Nomination. The most significant barriers arise before voters choose, in internal party cadre development and candidate selection. Affirmative action should therefore target transparent, competence-based processes: measurable selection criteria, open qualification assessments, training, and structured career development for women cadres. This accords with ḥifẓ al-ʿaql (preservation of intellect), as capacity, rather than gender or family connections, becomes the basis for selection.

c. Strengthening Political Party Policies. Parties are gatekeepers to executive office because candidates are nominated through parties or coalitions. Patriarchal attitudes are associated with opposition to higher gender quotas and a lower propensity to vote for women.[46] Party policy could be strengthened by writing affirmative provisions into party constitutions and bylaws, requiring women's cadre development and representation in nomination bodies, and introducing public reporting backed by incentives or administrative sanctions.[47] These measures advance *ḥifẓ al-dīn* by treating leadership as a trust (*amānah*): parties, as bearers of public trust, are obliged to open pathways for competent and just candidates.

d. More Equitable Political Financing. High political costs constrain access for women candidates, who on average have more limited financial resources.[48] State financial assistance to parties should be tied to funding for women's cadre development and candidacy. These measures relate to ḥifẓ al-māl (preservation of wealth): public funds should be managed equitably and should not needlessly narrow the pool of qualified leaders.

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[43] UU Pemilu, Pasal 245 dan 246.

[44] Vasandani, Nugraha, dan Susantijo, "Affirmative Action Study on the Political Rights of Women in the Indonesian Constitution," Mei 2022.

[45] ʿAuda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

[46] White dkk., "Voting against Women."

[47] Aulya, Moenta, dan Halim, "Perempuan dan Politik."

[48] Hardjaloka, "Potret Keterwakilan Perempuan dalam Wajah Politik Indonesia Perspektif Regulasi dan Implementasi."

e. Substantive Representation, Rather Than Targets Alone. Numerical targets alone risk producing descriptive representation without changing public policy.[49] Substantive indicators, such as women leaders' decision-making authority and policy influence, are therefore needed. *Maqāṣid al-sharīʿah* and gender justice can serve as criteria for assessing substantive representation,[50] particularly through *ḥifẓ al-nasl* and *maṣlaḥah*, so leadership should be evaluated by its tangible benefits to the public, not by numerical representation alone.

f. A Measurable Operational Framework. To make implementation practicable, the 30% target applies at two stages of candidate selection rather than to electoral outcomes. First, at preliminary screening, women must make up at least 30% of the prospective candidates screened and assessed for eligibility through the internal selection process of a political party or coalition. Second, among the candidates ultimately nominated, a party or coalition must nominate women for regional head positions in at least 30% of all candidacies it puts forward in a single cycle of simultaneous regional elections. Fractions must be rounded up, following the principle reflected in Supreme Court Decision No. 24 P/HUM/2023. Because each party or coalition nominates only one presidential and vice-presidential ticket, no aggregate target can be calculated, so only the screening obligation applies to these offices. A scheme requiring "one woman on every ticket" is not recommended, since it risks confining women to vice-presidential or deputy regional head candidacies.

Implementation should proceed in phases: (1) establishing the framework through amendments to the General Elections Law and the law on regional head elections, which media reports say are currently under discussion;[51] (2) requiring political parties to report their internal screening criteria and results to the General Elections Commission (KPU) before candidate tickets are registered; (3) requiring the KPU to verify compliance at registration, with an opportunity to remedy deficiencies; (4) assessing compliance with the aggregate target at the end of each election cycle; and (5) evaluating the policy after each cycle to decide whether to continue, revise, or discontinue it.

Sanctions should be graduated, drawing by analogy on Constitutional Court Decision No. 128/PUU-XXIV/2026 and on the requirement that women make up at least 30% of a political party's central executive board as a condition of election participation,[52] while preserving voters' freedom of choice (Table 4). Constitutionally,

[49] Wardani dan Subekti, "Political Dynasties and Women Candidates in Indonesia's 2019 Election."

[50] Piliyanti dan Alwiyah, "Female Leadership of Islamic Philanthropic Institutions in Indonesia."

[51] Media, "Putusan MK soal Caleg Perempuan Disebut Jadi Bagian dari Revisi UU Pemilu."

[52] "UU No. 2 Tahun 2011 tentang Perubahan atas Undang-Undang Nomor 2 Tahun 2008 Tentang Partai Politik - JDIH BPK," Database Peraturan | JDIH BPK, diakses 14 Oktober 2026,

these requirements should be established by statute rather than solely through KPU regulations, be confined to the nomination process so as not to alter the determination of electoral winners by the highest number of votes, and carry evaluation clauses and a time limit, consistent with the temporary special measures contemplated by Article 4(1) of CEDAW.

Table 4. Normative Recommendations and the Proposed Operational Framework for Affirmative Action in Executive Leadership

Component	Normative Recommendation	Proposed Operational Framework	Implementing Institutions, Legal Instruments, and Risk Mitigation
Extension of affirmative action	Extend the 30% quota from the legislative to the executive branch at the candidate nomination stage.	Aggregate requirement: women must be nominated in at least 30% of all regional head candidacies a party puts forward in a single cycle of simultaneous regional elections, fractions rounded up.	Amend the General Elections Law and the Regional Head Elections Law; verification by the KPU.
Recruitment and candidate nomination	Ensure transparent, competence-based selection.	Women must be at least 30% of prospective candidates identified through internal screening; criteria and assessment results are reported to the KPU and made public.	General Elections Law and party constitutions and bylaws (AD/ART); oversight by Bawaslu.
Political party policies	Strengthen political parties' role as fair gatekeepers to executive office.	Scheduled leadership development and cadre training for women, women's representation in party bodies responsible for candidate nomination, and annual reporting.	Political Parties Law. Article 20, which refers to taking women's representation in regional party leadership into account, should be strengthened.[53]
Political financing	Promote more equitable political financing.	Allocate part of state financial assistance to parties to women's cadre development and candidacy, with expenditure reports.	Political Parties Law and implementing regulations. Risk: misuse of funds. Mitigation: audits and public disclosure of reports.
Enforcement	Ensure that affirmative action obligations are	Graduated sanctions: verification with an opportunity to remedy deficiencies; public disclosure and reduced financial	KPU and Bawaslu; by analogy with Constitutional Court Decision No. 128/PUU-

https://peraturan.bpk.go.id/Details/39131/uu-no-2-tahun-2011 Pasal 2 ayat (2) dan (5), serta Pasal 20; UU Pemilu Pasal 173 ayat (2) huruf e.

[53] JDIH BPK, "UU No. 2 Tahun 2011," Pasal 2 dan Pasal 20.

Component	Normative Recommendation	Proposed Operational Framework	Implementing Institutions, Legal Instruments, and Risk Mitigation
	binding and proportionate.	assistance; rejection of nomination documents lacking the screening report.	XXIV/2026, without eliminating voters' freedom of choice.
Evaluation and time limits	Prioritize substantive representation rather than numerical targets alone.	Evaluate after each election cycle using sex-disaggregated data on candidates, electoral outcomes, appointments to strategic positions, and gender-responsive policies; consider discontinuing the policy once its objectives are achieved.	Article 4(1) of CEDAW (temporary special measures). **Risk:** limited data. **Mitigation:** KPU and Kemendagri publish relevant data.

D. Conclusion

Three conclusions follow. First, women's executive leadership has a firm legal basis under Law No. 7 of 2017 on General Elections, since no provision prescribes a gender requirement for presidential and vice-presidential candidates; the 30% affirmative quota, however, applies only to legislative candidacy and has not been extended to executive office. Structural barriers, including political parties' control over candidate screening, political financing, male dominance within parties, and patriarchal culture, continue to constrain substantive representation. Second, women's executive leadership is firmly grounded in Islamic law through the five fundamental objectives of the *sharīʿah* and Jasser Auda's systems approach, both tested against textual, methodological, empirical, and positive-law objections; restricting the access of competent and trustworthy women to leadership undermines the very objectives of Islamic law. Third, the reconstruction of affirmative action policy is the article's principal contribution. The 30% target should be extended from the legislative to the executive branch as an obligation at the candidate nomination stage, combining an aggregate target for each political party with internal candidate screening requirements, supported by transparent recruitment, stronger party policies, and more equitable political financing, and directed toward substantive representation. The operational framework specifies stages, oversight institutions, graduated sanctions, and time-bound evaluation.

This article has not empirically tested the effectiveness of the proposed affirmative action framework. Further research should therefore examine its potential implementation in regional head elections, including sex-disaggregated data on political campaign expenditure.

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