

CHAPTER I

INTRODUCTION

A. Background

Political representation of women in parliament was still lower than the representation of men around the world. Today, women in the world only constitute 18.4 percent of the members of parliaments, if it takes into account¹. This was due to the political arena that was identically with roles and power of men. Considering this issue, an alternative tool that could increase women's political representation effectively was required.

One of countries that had low level of women representation in public and non-public space especially in political space was Afghanistan. Afghanistan is a developing country that has total population is over 23.9 million and 48.8 percent are women.² This means that almost half of population is woman. However, the roles of women in Afghanistan in the public and non public sector were weak. This can be seen when Taliban took over Afghanistan, Afghan's women were not getting access to education, healthcare, and access to political activity either directly or indirectly. In addition, they were also tortured both physically and mentally from their family or outside one. On the contrary, under prior Taliban governmental systems, Afghan's women still got access to work as doctors, teachers and government employees, as

¹ International IDEA, "Quota Project", <http://www.quotaproject.org/aboutQuotas.cfm>. Retrieved in June 21st 2010

² UNIFEM for Afghanistan, "Fact sheet in Afghanistan", <http://www.unifem.org/afghanistan/media/pubs/factsheet/10/population.html>. Retrieved in June 21st, 2010

well as gaining access to get education at schools.³

On Taliban's regime, women only became subordinated or discriminated human beings since Afghanistan had applied patriarchal culture, where men were more dominant in the roles and power. Such serious cases like abuse, rapist, and murder of women were just common cases in Afghanistan. Taliban imposed Sharia law extremely in Afghanistan. They believed that women were only in charge of domestic sector. As a consequence, the Taliban regime had brought serious miseries to women in Afghanistan.

However, the Taliban collapsed due to military invasion of the United States in September 2001. United States Armed Forces, backed up by British Armed Forces and Afghan Northern Alliance, led by Hamid Karzai all together overthrew the Taliban. Eventually, through the endorsement of the United Nations, Afghanistan formed Afghan's Interim Government as a government transition in December 2001 under Bonn Agreements. Now, Afghanistan has formed new constitution, new government, as well as run third times of elections that were twice Presidential election in 2004 and 2009, respectively, once Provincial Council election in 2005, and once parliamentary election in 2005.⁴ Meanwhile, the District Council election had not been conducted yet due to any dispute around district boundaries.

Afghan's parliament is divided into two, which are Meshrano Jirga (the Upper House/the House of Elder) and Wolesi Jirga (the Lower House/the House of People). The parliamentary elections had resulted numbers of women candidates to stand for election as parliamentarians. This was an unprecedented thing in Afghanistan, since it never happened in Afghan's history.

³ National Organization for Women, "Women's lives under the Taliban", <http://www.now.org/issues/global/afghanwomen1.html>. Retrieved in June 21st, 2010

⁴ Wikipedia the free Encyclopedia, "Politics of Afghanistan", http://en.wikipedia.org/wiki/Politics_of_Afghanistan. Retrieved in June 21st, 2010

The supporting factor behind this success could not be separated from the above achievement. Cited from Afghan's new constitution, it includes a quota system for Afghan's women in the Meshrano Jirga (Upper House/House of Elder) and Wolesi Jirga (Lower House/House of People).⁵ It helped women take participation to become either member of Wolesi Jirga or Meshrano Jirga. This quota system was written legally in Afghan's new constitution.

Besides, in accordance with Afghan's new constitution in article twenty-two, men and women have equal right and duties as citizen,⁶ thereby Afghanistan's government is willing to increase women participation in parliament by adopting system of quota. In addition, solving woman's issues were the main focus of the new government prompted by some actors such as International Organizations, Woman's Movement, and Afghan's Women State Institution. By selected as parliamentarians, women were hoped can fight for Afghan's women rights. That was why adopting quota system was an appropriate way to increase women's representation in parliament. The obligation for implementing this quota system was regulated comprehensively in Afghan's constitution and electoral law.

B. Research Objectives

This research with title **“The Quota System for Women as Parliamentarians in Afghanistan”** had several purposes, as follows:

1. Understanding Afghanistan's political system.

⁵ Anja N. T., “Demands for Electoral Gender Quotas in Afghanistan and Iraq – The Research Project, 2004,” Stockholm University

⁶ “The Constitution Islamic Republic of Afghanistan”, <http://president.gov.af/Contents/68/Documents/213/ChapterTwoFundamentalRightsAndDutiesOfCitizens.html>. Accessed in June 10th, 2010

2. Elaborating the electoral system of Afghan's parliament, which would be started with the explanation of Afghan's women livings and the quota controversy in Afghanistan.
3. Analyzing the quota system in Afghanistan, in other words, how it worked in Afghanistan.

C. Research Question

Based on the background explained above, a research question could be taken:

“How did Afghan's women become parliamentarians through quota system?”

D. Theoretical Framework

In order to analyze the system of quota applied in Afghanistan, the models of quota system by Krista Lee-Jones would be used.

Quota is one of effective tools in assisting women into Parliament in a country, especially a post-conflict country facing the very low number of women representation. Similarly, the core idea behind quota systems is to recruit women into political positions and to ensure that women are not only a few tokens in political life.

Generally, according to Krista Lee-Jones, quotas can be of three types divided into:⁷

1. Constitutional quota

This constitutional quota is mandated in the written constitution as the legal source of a country. Constitutional quotas are based on legal provisions, officially

⁷ Krista J. L., “Quota System Models”, Transparency International Vanutu

mandating that all political entities participating in elections that apply them equally. How many quota women can gain is regulated in the constitution of a country. The constitutional quota is divided into two types, Reserved Seats and Legal Candidate Quotas. Reserved Seats means that the law is made to ensure that some parliamentary seats are reserved for women, in other words, reserved seats is created in regulating the number of women's seats in the election. Whereas, Legal Candidate Quota is to set a minimum for the share of women on the candidate lists. Similarly, this quota provision reserves a number of places on electoral lists for female candidates. However, both have a similar core function that is to guarantee women representation in parliament.

2. Electoral law quota

Electoral law quota is determined and mandated by the electoral law as one of legal sources of a country. Not different from constitutional quota, electoral law quota is also officially regulating that all political entities taking participation in election in equal. Based on electoral law quota, quota also can be divided into two types that are Reserved Seats and Legal Candidate Quota. Here, reserved seats function for regulating the number of women's seats that must be filled by elected women in the election. On the contrary, Legal Candidate Quota functions in setting a minimum of quota for the share of women on the candidate lists.

3. Voluntary political party quota

This type of quota is adopted and implemented by individual political parties. It is different from the two types above. Voluntary political party quotas are set by the political parties themselves, in order to guarantee the nomination of a certain number

or proportion of women. Further, to guarantee a minimum for the share of women on the candidate lists, a measure written into the statutes of individual political parties is used. There are generally three different types of political party quota system, which are quotas for the pool of potential candidates, quotas for the candidates or candidate list, and quotas for the elected representatives. These three kinds target the outcome of an election. Moreover, a political party can decide that out of the seats they win in an election, a certain number or percentage should be set-aside for women. This kind of quota is only applicable to systems where parties are able to determine who is going to occupy the seat.

Meanwhile, not only what quota applied in a country is important. Sanctions for non-compliance are also needed in propelling a country to foster women representation. There are no universal regulation regarding this matter, but it totally depends on a state's policy. On one hand, there are some quota-based countries that create legal sanctions for non-compliance either strictly or not. On the other hand, some countries implement quota system but they are not using legal sanction for non-compliance.

Considering the types of quota above, Afghanistan is a post-conflict country that has very low representation of women in parliament, has both legal sources that are constitution and electoral law. It means that Afghanistan applies two legal sources of quota. It can be seen from Afghan's Constitution article 83 and 84 as well as Afghan's Electoral Law article 23.

According to article 83 of constitution, the Wolesi Jirga will consist of 220-250 parliamentarians, elected according to available seats between men and women based on size of the population in each of thirty-four provinces in Afghanistan. There

would be averagely two women from each province, which would guarantee a minimum of 25 percent women in parliament. Besides, the main cores of Afghan's Electoral Law article 23 are the number of seats from each province and the number of women seats from each province is decided by the Independent Electoral Commission (IEC), although no province shall have less than two seats and the women seats shall be at least twice the number of provinces. According to specification IEC, there are 68 reserved seats of the 249 members of parliament or 27 percent seats will be reserved for women from 34 provinces in Afghanistan. The 3 seats of 10 available seats are also reserved for *kuchi* women. Kuchis are nomadic people, the communities who move from one place to another rather than settling permanently in one location. According to statistic, there are three million Kuchis in Afghanistan.⁸ The reserved seats for women in Wolesi Jirga were arranged prior to parliamentary election by cooperation between Central Statistic Office (CSO) and Independent Election Commission (IEC), based on the official estimation of each provinces population in Afghanistan.

Meanwhile, the Meshrano Jirga, according to article 84, the number of Meshrano Jirga's members shall be thrice the number of existing provinces. Consisting of one-third representatives of province, one-third district councils and one-third presidential appointees likewise. The president appoints the experts and experienced Afghans and 50 percent of them should be women. Thus, around 17 seats in the Meshrano Jirga are reserved for women.⁹

⁸ Wikipedia the Free Enciclopedya, "Kuchi People", http://en.wikipedia.org/wiki/Kuchi_people. Retrieved in June 25th, 2010

⁹ Drupe D. & Anja N. T., (2004), "Gender quotas – a key to equality, a case study of Iraq and Afghanistan", Stockholm university.

Therefore, from above explanation and seen from the three article's contents of constitution and electoral laws, it can be concluded that Afghanistan has reserved seats as sub-quota of Constitutional Quota and Electoral Laws Quota. Since Reserved Seats guarantee some parliamentary seats are reserved or allocated for women. These articles whether from constitution or electoral law are as the guarantee that Afghanistan country is guarantying a number of women in parliament.¹⁰

In regard with the establishment of legal sanction for non-compliance by a country, Afghanistan applies a regulation regarding the sanction for non-compliance of quota. It stated in Electoral Law article 22, if there are no enough women to take the reserved seats, thus the reserved seats shall remain empty until next election. This legal sanction is aimed to encourage the fulfillment of quotas for seats that has been reserved for women as members of parliament.

Through Reserved Seats, women representation in parliament is ensured. Women will get seats that are reserved for them by nominating themselves first as a candidate, both candidates for Wolesi Jirga and Meshrano Jirga that is indirectly elected by Provincial Council. Similar to most elections in the entire world, a candidate must be fulfilling all criteria or qualifications as a candidate. The whole candidates' criteria and procedures of candidacy are based on Afghan's Electoral Law. Once qualified, Wolesi Jirga's candidates can step forward as candidates who represent their provinces and register themselves at the Joint Electoral Management Body (JEMB) Candidate Nominations Office in their province¹¹. Wolesi Jirga and Meshrano Jirga have a different way of elections, even though they both have the same quota system that is Reserved Seats.

¹⁰ Official website of Afghanistan's government, www.president.gov.af. Retrieved in June 1st, 2010

¹¹ The Joint Electoral Management Body (JEMB), (2005), "Background Briefing: Wolesi Jirga and Provincial Council Elections 2005."

Wolesi Jirga is held through direct elections by using the Single Non-Transferable Voting (SNTV) System as a mode of election. Through SNTV, a woman candidate who obtained the most votes will get a seat in Wolesi Jirga, although the vote obtained is less than 1 percent. Wolesi Jirga's member will be elected by voters who already have a registration card as an identity of eligible voter. Before Election Day, candidates of Wolesi Jirga should do a campaign in their respective regions to get support and to be elected.

In fact, all Wolesi Jirga's candidates are registered as independent candidates. Due to the implication of SNTV itself that enables political party's names do not exist. In addition, political parties in Afghanistan have serious credibility problem in Afghanistan since on one hand they are associated with the Communist Party and the Soviet invasion, and on the other hand they are associated with the Islamist military groupings who produced much of the instability and bloodshed in the 1990s.¹² Therefore, many Afghans, including senior members of government, do not trust parties and see them as mostly pursuing self-interested policies for their own group rather than public interest. Therefore, to avoid the less votes, many candidates are admitted and enrolled as independent candidates, even though they are involved either formally or informally with any political party.¹³ Many candidates, especially women need the support from most political parties to get campaign funding¹⁴. Not only political party that can support the candidates, other Afghan's groups that is categorized as Civil Society Group, such as Afghan's Ethnic Group, Afghan's Women Group, and Afghan's Religious Group can be political engine of candidates

¹² Reynolds A., Jones L., Wilder A. (2005), "A guide to Parliamentary Elections in Afghanistan", Afghanistan Research and Evaluation Unit, Kabul, Afghanistan, p.9.

¹³ USAID, The National Democratic Institute For International Affairs (NDI), (2005), "The September 2005 Parliamentary And Provincial Council Elections In Afghanistan".

¹⁴ USAID, The National Democratic Institute For International Affairs (NDI), (2005), "The September 2005 Parliamentary And Provincial Council Elections In Afghanistan".

who belong to them. Giving the direct support or indirect support to their candidates.

Unlike Wolesi Jirga, women candidates who have registered themselves as Meshrano Jirga's candidates and have qualified as candidate members of Meshrano Jirga do not need to do a campaign and get plenty of supports from political parties. It is due to what is already stated in Afghan's Electoral Law under article 84. They are chosen by the Provincial Council and District Council as well as appointed by the Afghan's President. They will be selected based on a majority votes by the elected Provincial Council and District Council, and the rest will be selected in accordance with the consideration of President. Women get half of the seats from the 34 candidates who will be elected by the president. This means that there must be at least 17 women seat in Meshrano Jirga. These provisions are applied according to the Afghan's constitution. Moreover, Afghan's Electoral Law articles 25, 26, and 27 set up in details how Provincial Council and President select members of Meshrano Jirga.

E. Hypotheses

For becoming Wolesi Jirga's members, women had to fulfill all requirements for candidacy and follow all procedures of election, be elected by eligible voters through Single Non-Transferable Voting (SNTV) system, and obtain higher votes than other women for getting a seat already reserved for them. In contrast, for becoming Meshrano Jirga's members, women had to meet all requirements and procedures of appointments and would be appointed by President based on his consideration to get women's reserved seats in Meshrano Jirga.

As the results, women have gained 68 (27.3 percent) from 249 total seats in Wolesi Jirga and 23 (22.4 percent) from 102 total seats in Mesharno Jirga. The number of reserved seats for both Wolesi Jirga and Meshrano Jirga was successfully occupied, even the quantity of Meshrano Jirga exceeded the target of quota.

F. Methods of Research

The research used descriptive method. This method was to describe and analyze Quota System for women as parliamentarians in Afghanistan

This research used library research to collect secondary resources of which the data were from books, journals, internet, newspaper, and other related references.

G. Range of Research

For making the research focus, the range of research was limited from 2002 until 2005. However, this research was opened for other relevant data outside the range as long as it was connected to support research.

H. The Composition of Research

- Chapter I : This chapter is about introduction which consists of background, research question, theoretical framework, the purposes of research, hypotheses, method of research, and the range of research.
- Chapter II : This chapter explains about Afghanistan's political system which consists of the new government system, the new constitution, the branches of government, and the groups in Afghanistan.
- Chapter III : This chapter gives comprehensive information about the electoral systems of Afghanistan's parliament, which started by

describing women's living in Afghanistan and quota controversy in Afghanistan as well.

- Chapter IV : This chapter analyzes how Afghan implemented quota system. It is also divided into two. Those are Election preparations, the Election Day, and closed by the Election Result. Election preparations consist of candidacy, voters/electors, and campaign. Whereas, the last one explains about the elected woman candidates in Afghan's parliamentary election 2005.
- Chapter V : Conclusion