

ANALYSIS OF THE FULFILLMENT OF POLITICAL PARTICIPATION RIGHTS FOR PEOPLE WITH DISABILITIES IN THE PROCESS OF ELECTIONS IN INDONESIA

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Abstract

The objective of this study is to identify the obstacles that impede the realization of political participation rights for individuals with disabilities during the electoral process in Indonesia, as well as potential solutions to these challenges. The normative and doctrinal research methods were utilized in this study. The materials were gathered through the utilization of both literature and field investigation. This research identifies at least three significant obstacles to the implementation of political participation rights for individuals with disabilities. Enforcement of laws and regulations and sociocultural factors are the issues. Potential remedies for these challenges include augmenting the enforcement of laws and regulations, as well as implementing social programs that benefit both the government and the community.

Keywords: Political Participation Rights, Election, People with Disabilities

INTRODUCTION

In Indonesia, general elections (Pemilu) hold significant democratic value as they grant citizens the right to choose their representatives for the legislative and executive branches of government¹. In addition to functioning as a political procedure, elections serve as a critical mechanism through which human rights are put into effect. Conducting elections is an essential requirement for a representative democratic system, which seeks to establish a government that is of, by, and for the people (as a modern democratic

¹ Janedjri M Gaffar, 'Demokrasi dan pemilu di Indonesia' (Konstitusi Press 2013)
<https://simpus.mkri.id/opac/detail-opac?id=9319>

nation)². Elections contribute to the safeguarding and realization of citizens' rights, including the legally guaranteed right to vote and be elected, in the context of human rights³. It is the responsibility of organizations such as the General Election Commission (KPU), the General Election Supervisory Body (Bawaslu), and the Election Organizer Honorary Council (DKPP) to ensure that the human rights of all citizens are respected, protected, and fulfilled.

From a philosophical standpoint, general elections are regarded as an embodiment of democratic engagement and social justice. In this regard, the election process ought to be guided by the principles of equitable and dignified justice, as enshrined in the Pancasila values, with particular emphasis on the fifth principle that underscores social justice. In addition to being regarded as a significant national deliberation, elections demonstrate the active engagement of the populace in shaping the trajectory and policies of the nation. This theory underscores the significance of elections that not only ensure freedom and fairness, but also uphold the values of integrity, dignity, and justice throughout the electoral process.

Inclusive elections are elections that are held by providing the widest possible opportunities without regard to ethnicity, race, religion, gender, people with disabilities, socio-economic status and so on. In this context, the General Election Commission (KPU) plays an important role in realizing inclusive and disability-friendly elections. Especially for people with disabilities, understanding elections is becoming increasingly urgent⁴. Persons with disabilities have the same political rights as other citizens, including the right to vote and be elected to public office, express political aspirations, choose a political party, and form an organization⁵. Additionally, people with disabilities have the right to actively participate in all phases and aspects of election administration. This means that

²Komisi Pemilihan Umum, 'Wujudkan Pemilu 2024 sebagai Pemilu Inklusif dan Ramah Disabilitas' (11 January 2024) <https://www.kpu.go.id/berita/baca/11963/wujudkan-pemilu-2024-sebagai-pemilu-inklusif-dan-ramah-disabilitas>

³ Universitas Jambi, 'Demokrasi dan Pemilu yang Demokratis' (3 December 2023) <https://www.unja.ac.id/15598/>

⁴'Demokrasi dan Pemilu di Indonesia: Suatu Tinjauan dari Aspek Sejarah dan Sosiologi Politik' (8 December 2023) <https://jurnal.ugj.ac.id/index.php/Signal/article/view/877> accessed 16 January 2024

⁵Pemilu 2024 Waktunya Demokrasi Gagasan, Bukan Demokrasi Pengkultusan' (10 January 2024) <https://www.lemhannas.go.id/index.php/publikasi/press-release/1670-pemilu-2024-waktunya-demokrasi-gagasan-bukan-demokrasi-pengkultusan> accessed 16 January 2024

people with disabilities not only have the right to vote and be elected, but also have the right to be part of the election itself.

Political participation is an inalienable human right that all citizens, including those with disabilities, are entitled to⁶. The political participation rights of people with disabilities serving as election organizers in Indonesia are governed by a multitude of national and international regulations. Law No. 8 of 2016 concerning People with Disabilities ensures the protection of the rights of individuals with disabilities at the national level⁷. This includes political rights such as the right to vote and the right to be elected in elections. Indonesia has formally endorsed the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention on the Rights of Persons with Disabilities (CRPD) at the global level⁸. These two international legal instruments affirm the right of individuals with disabilities to engage in political and public life in a comprehensive and efficient manner.

METHOD

The present study employs normative and doctrinal research methodologies. A literature review was employed to compile the legal materials being gathered. For the purposes of this study, laws, regulations, documents, journals, and online media serve as the principal legal sources. In the meantime, field data is being collected for this study through informant interviews.

RESULT AND DISCUSSION

The People with Disabilities and the Political Participation Rights

A. Legal Obligation of Political Participation Rights for People with Disabilities

The regulations regarding the fulfillment of political participation have existed both in international and national level. The International Covenant on Civil and Political

⁶ Sistem Pemilu dan Demokrasi' (3 January 2024) <http://wkwk.lecture.ub.ac.id/2022/01/sistem-pemilu-dan-demokrasi/> accessed 16 January 2024

⁷'Perkembangan Hukum di Indonesia' (30 November 2023) <https://publikasi.ubl.ac.id/index.php/Monograf/catalog/download/24/51/242-1?inline=1> accessed 16 January 2024

⁸Frans Mikael Habicarani Pakpahan, 'Partisipasi Politik Penyandang Disabilitas Pada Pemilihan Bupati Dan Wakil Bupati Di Kecamatan Tumbang Titi Kabupaten Ketapang Tahun 2020' (24 November 2023) https://jurnafis.untan.ac.id/index.php/aspirasi/article/viewFile/3417/pdf_202 accessed 16 January 2024

Rights (ICCPR) of 1996, among other international agreements, has established that every citizen possesses the right to participate in the conduct of public affairs, not only through their representatives but also directly⁹. This right extends beyond the ability to voice their opinions through representatives.

According to the Convention on the Rights of Persons with Disabilities (CRPD), which was signed in 2007, this right was also emphasized¹⁰. It is stated in Article 29 of the Convention on the Rights of Persons with Disabilities (CRPD) that "the state parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others¹¹". Additionally, this paper brought attention to the fact that the state is obligated to guarantee that individuals with disabilities are able to actively engage in political and public life on an equal basis with other individuals, either directly or through representatives that are freely chosen.

During this time, Indonesia has enacted Law Number 8 of 2016, which pertains to individuals who have disabilities. Persons with disabilities are granted the right to actively participate in the general election system at all phases and/or aspects of its implementation¹², as stipulated by Article 13 of the law. This is one of the political rights that persons with disabilities are entitled to.

B. Scope of Political Rights of People with Disabilities

Regarding authority and justice, all individuals are treated equally if politics is a spectrum. Article 43 of Law No. 39 of 1999 on Human Rights ensures both active and passive political rights in accordance with the Constitution. These are election administration rights: voter registration, access to objective election information, the ability to vote, and the ability to lodge complaints with relevant parties. If eligible, the election administration system permits legislative members, the President, and the Vice President to exercise passive voting. Disabled people's progressive political rights must be promoted to enforce equality, support general elections, and expose prejudice. As

⁹ International Covenant on Civil and Political Rights (ICCPR) 1996

¹⁰ Ridwan Arifin, Iqbal Baiquni, Januari Nasya Ayu Taduri, Rasdi Rasdi, Zikkri Zikkri, 'The International Law Principle for People with Disabilities: Analyzing Access to Justice' (2021) 7(2) Jurnal Hukum Universitas Negeri Semarang, 371-404

¹¹ Article 29 of International Covenant on Civil and Political Rights 1996

¹² Law Number 8 of 2016 about People with Disabilities

stated, the KPU statistics and information planning branch: As a political rights organizer, the KPU has given disabled persons the most voting station access¹³.

1. Rights to Vote and to be Voted

Article 13 of Law No. 8 of 2016 addresses the political rights of individuals with disabilities as well¹⁴. Central and regional governments must ensure disabled individuals can fully and effectively engage in politics and public life, directly or through representatives. As part of their right to public office, federal and regional governments must allow disabled individuals to vote and be elected¹⁵. Basically, people with disabilities have the same rights to be elected and vote in elections. However, people with disabilities are also required to fulfill requirements, one of which is being able to be spiritually and physically able to carry out their duties and obligations.

2. Accessibility

Law No. 8 of 2016 guarantees the right to accessibility for people with disabilities to achieve equal opportunities without discrimination. Accessibility allows for disability-related modifications and adjustments to ensure equality. Articles 5 and 18 of UU No. 8 of 2016 grant people with disabilities the same rights, therefore state respect attempts fulfill them. Article 1 of Law of the Republic of Indonesia Number 8 of 2016 states, "Accessibility is the convenience provided for people with disabilities to realize equal opportunities in all aspects of life and livelihood." Article 10(2) states: "Law 8 of 2016 promotes accessibility to enable people with disabilities to fully participate in society.

3. Legal Protection

Special treatment for Persons with Disabilities is not unusual in terms of legal protection. Persons with disabilities demand particular social care and attention.¹⁶ Considering the paradigm conception of state administration, improductivity often results from disability factors like weak physical and/or intellectual conditions, leading to discrimination, exploitation, and marginalization of Persons with Disabilities. Special

¹³ Ahsanul Minan, dkk, "Perihal Pelaksanaan Hak Politik, Badan Pengawas Pemilihan Umum". 2019.

¹⁴ Universal Declaration of Human Rights (UDHR) 1945

¹⁵ Universal Declaration of Human Rights (UDHR) 1945

¹⁶ Suparman Marzuki, dkk, 2021, "Akses Keadilan Bagi Penyandang Disabilitas Dalam Proses Peradilan", Yogyakarta : Kreasi Total Media.

treatment means accessibility compensates all barriers to public service values for people with disabilities¹⁷.

This is an international call for a fair and accessible election system based on the International Covenant on Civil and Political Rights, which is strengthened by the UN resolution on Human Rights, which states that vulnerable group members have special rights to ease in obtaining Ensure there is no discrimination, limits, reductions, or hurdles due to physical nor intelligence disabilities¹⁸. Overall, as an implementation of the human rights instrument contained in Article 28 letter H paragraph (2): "Everyone has the right to receive facilities and special treatment to obtain the same opportunities and benefits in order to achieve equality and justice".

It also backs international agreements like the Vienna Conference, which guaranteed disabled individuals special treatment in public service. Law 7 of 2017 requires vote. Fraudulent voter lists and election law violations are irregularities. Election administration errors involve methods and procedures. Elections without oaths or commitments are unethical.¹⁹

C. Implementation of Political Participation Rights in the Process of Elections for the People with Disabilities

The General Election Commission (KPU) as the independent organizer of general elections in Indonesia makes the KPU the legal enforcer in fulfilling the political participation rights of persons with disabilities in Indonesia in organizing elections and in particular being part of the election organizers.

- **Application of The Principles of Non-Discrimination and Justice to the Electoral Regulations of Indonesia**

The purpose of inclusive elections is to guarantee that each individual within a society has an equivalent chance of engaging in political processes. As long as the criteria are met, this includes recognizing and upholding the political rights of all citizens, irrespective of their ethnicity, religion, gender, age, disability, socioeconomic status, or age. Elections may be conducted in a manner that is

¹⁷ Indonesia Komisi Nasional Hak Asasi Manusia. *Marjinalisasi Hak Politik Penyandang Disabilitas*. Komnas HAM : Jakarta. 2011. P. 11-14.

¹⁸ *Ibid*, p. 30-31

¹⁹ Nurul Huda, "Hukum Partai Politik Dan Pemilu Di Indonesia" Fokus Media. 2008.

accessible and accommodating to individuals with disabilities. The Constitution, which affirms that all individuals possess an equal right to vote, delineates regulations pertaining to the principle of justice. As *lex specialis*, General Election Commission Regulation No. 7 of 2022 does not prohibit the participation of individuals with disabilities in elections. To create elections that are inclusive and accessible to individuals with disabilities, however, all segments of society, including the government, administrators, and the general public, must collaborate in a sustainable manner to implement the principles of justice and nondiscrimination.

- **Managing Election Organizers' Efforts to Provide People with Disabilities with Comprehensive Socialization Regarding Their Political Participation Rights**

Advancement of knowledge and comprehension have been achieved via a series of dissemination initiatives conducted by the KPU, functioning as an autonomous organizing entity, prior to the commencement of the election. This measure is crucial in guaranteeing that individuals with disabilities not only possess the knowledge and means to effectively engage in the political process, but are also provided with the support and accommodations that are essential for that purpose. This outreach initiative seeks to eliminate negative stereotypes about people with disabilities and ensure they have equal opportunities to exercise their political rights, in addition to disseminating information. This entails guaranteeing that individuals with disabilities are provided with non-physical accessibility to election-related information, including introductions to visions and programs put forth by election contestants and legal provisions pertinent to regional elections.

- **Participation of NGOs with Disabilities in the Implementation of Elections**

Throughout the election process, the KPU engaged in collaborative efforts with multiple Non-Governmental Organizations (NGOs) to effectively execute the principle of inclusivity. The Indonesian Disabled Movement for Equality (PerDIK) is one such organization. PerDIK and the KPU (in this instance, the Makassar City KPU) have reached an understanding in the form of a Memorandum of Understanding that addresses the participation and accessibility of individuals with disabilities in election processes. This statement demonstrates support for the

inclusivity principle's implementation and satisfies the political participation right of individuals with disabilities.

The Issues and Solutions for the Fulfillment of Political Participation Rights for People with Disabilities

A. Stigmatization and the Disability Paradigm in Indonesia

In Indonesia, stigmatization and preconceived notions concerning individuals with disabilities continue to be substantial problems. The stigma surrounding people with disabilities, particularly women with disabilities, persists in mass media, including notifications. An individual who has a disability has the capacity to concurrently maintain two additional identities, such as that of a woman and a member of a minority group. A person with multiple identities (disability, woman, minority group), each of which intersects with the others, will exacerbate discrimination, violence, and exclusion in society, according to the intersectionality perspective. Aside from that, we continue to face challenges due to the novelty of the regulations and the stigma itself. In Indonesia, stigmatization of individuals with disabilities continues to be a significant issue that impacts many facets of their lives, including their ability to vote, to be voted, also to participate in political events. Despite being protected by Law No. 8 of 2016, individuals with disabilities continue to face obstacles in the form of social stigma and access barriers that hinder their participation in the democratic process. The ramifications of this will manifest in Indonesia as a domino effect affecting the execution of elections. As a few of the potential consequences, discrimination, lack of awareness regarding political rights, and restricted access to information may ensue.

B. Lack of Inclusivity Values in the Implementation of Elections in Indonesia

Concerns remain regarding the absence of inclusive values in the execution of electoral processes concerning individuals with disabilities, who continue to face maltreatment and stigma. Despite the absence of formal barriers to the participation of individuals with disabilities as election organizers since the implementation of Law No. 7 of 2017 regarding General Elections, it is evident that there are still obstacles impeding the involvement of individuals with disabilities in organizing general elections at present. This direction still requires optimization

by KPU members in the capacity of organizers at all levels who continue to encounter access issues. Agenda has engaged in advocacy since 2011 to ensure that elections are accessible to all voters. This has been accomplished through the development of a checklist model for district and city-level General Election Commission Commissioners and the training of commissioners in the process of organizing accessible elections. These resources will subsequently be utilized to instruct TPS officers. Additionally, one of the concerns we have is the absence of a Disability Services Unit within the KPU secretarial apparatus. Establishing a specialized entity and/or maintaining coordination with disability stakeholders, including the NGOs, such as PerDIK and other disability organizations, is therefore necessary. In addition, that which seeks to instill inclusiveness values in election organizers so that they can facilitate socialization opportunities for people with disabilities and facilitate their participation as election organizers, can be accomplished by first conducting a technical guidance agenda as a special effort as a form of guidance to PPS and PPK organizers in order for them to comprehend the advocacy agenda pertaining to the creation of accessible elections.

C. 'Disability-inclusive election organizers' are not subject to any specific regulations.

While election regulations in Indonesia have prioritized impartiality and non-discrimination, there is a perceived necessity for regulations that address the specific needs of organizers who are individuals with disabilities, according to the author. Disabilities in general have distinct requirements. For instance, various forms of visual impairments that necessitate assistive technologies like braille or forms of deafness that require the use of a sign language interpreter, in addition to other categories of disabilities. At present, the budgeting process for assistive apparatus intended for individuals with disabilities, which is obviously essential for conducting inclusive elections, is not regulated in a specific way. Particularly when election organizers are tasked with implementing the political participation rights of individuals with disabilities. Technology is also an issue in elections. Mention the issue of data collection technology where the data collection form still uses the old disability-based categorization and does not include information on the type of assistive equipment. Accurate and complete information will enable

election organizers to prepare appropriate accommodations for people with disabilities, especially for those who are election organizers. These issues could be resolved by making a mechanism and/or derivative rules in order to specify the rights and special policy for people with disabilities to implement their political participation rights.

CONCLUSION

Organizing elections in Indonesia using an inclusive approach has experienced several challenges. Even though there are regulations regarding elections that are held based on justice and upholding non-discriminatory principles, there are no specific regulations governing budgeting which in principle should exist and be intended for the needs of people with disabilities during elections in Indonesia. Instilling and deepening the values of inclusivity among workers within the scope and space of election organizers, in this case the KPU, is also considered necessary in carrying out inclusive elections and achieving the fulfillment of political participation rights for people with disabilities in Indonesia.

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