



Fulfillment of the constitutional rights of persons with disabilities in the implementation of elections in Banda Aceh city

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Abstract

In several international instruments, the existence of the right to vote is recognized and protected. Article 21 paragraph (3) of the 1948 Universal Declaration of Human Rights (DUHAM), states, "the will of the people must be the basis of government power", this will must be expressed in general elections that are held regularly and honestly and carried out according to the right to vote which is general, nondiscriminatory, and by secret voting or according to other means that guarantee freedom of voting. Interestingly, the state of Indonesia is not included in the list of countries that list the right to vote as a constitutional right. The 1945 Constitution does not explicitly contain the protection of citizens' voting rights. However, in several constitutional cases that have been decided by the Constitutional Court (MK), there is an affirmation of the right to vote in decisions No. 011-017/PPU-I/2003 and No. 102/PPU-VII/2009 raising the status of the right to vote, both the right to vote or the right to be elected as a constitutional right. The approach used by the Constitutional Court is that the right to vote is a derivative constitutional right norm from the right to equal status in the government as stated in article 28 D paragraph (3) of the 1945 Constitution. Persons with disabilities themselves are defined as anyone who experiences physical, intellectual, mental, and/or sensory limitations for a long period of time who in interacting in the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights. KIP Banda Aceh City for the fulfillment of the basic rights of people with disabilities "immediately prepare a draft of the disability voter list for people with disabilities in the city of Banda Aceh reaching 494 people consisting of; 80 people are visually impaired, 56 are deaf/speech-impaired, 81 are visually impaired, 60 are visually impaired and 217 other disabilities are in the city of Banda Aceh. In using their voting rights in the 2019 elections, it is certainly the task and challenge of the Banda Aceh City KIP to provide wide access for people with disabilities through the provision of facilities and procedures with a disability perspective, providing access here to realize what and how equal opportunities in political life". That is, which means the same justice for every and all Indonesia people, whether it goes as expected or vice versa. The research method used in this study is juridical-empirical research. The approaches used are; A qualitative research approach by digging into facts in depth based on the scientific characteristics of individuals or groups to understand and uncover something behind the phenomenon by collecting the main data of the research through interviews and direct observation. Primary data is data obtained from the results of interviews with respondents and informants. Secondary data is data in the form of primary legal materials and secondary legal materials. The results of the study show that the mechanism for the implementation of voting rights for people with disabilities in the 2024 election in Banda Aceh City by collecting data on voting rights for people with disabilities so that voting rights for people with disabilities can be fulfilled, an effort to ensure that every person with disabilities who has qualified as a voter in the election is registered in the permanent voter list. Socialization to election officers, supervisors, volunteers and to people with disabilities themselves. The KPU also conducts socialization to organizations of people with disabilities who are active in the community. The lack of optimal work of KIP in practice in the field, both in terms of facilities and infrastructure and in the implementation in the field, Obstacle factors faced by people with disabilities are the lack of optimal work of KIP in practice in the field, both in terms of facilities and infrastructure and in the implementation in the field, the election facilities there is no difference between people with disabilities and ordinary people, everything is normal.

Keywords: Election implementation, Persons with disabilities, Banda Aceh

Introduction

General elections are regulated in Law Number 7 of 2017 concerning general elections where this law regulates general elections as a means of people's sovereignty in voting and all regulations related to the implementation of elections, at least you must understand the meaning of the word election itself. Elections are a means to appoint representatives to lead a government based on democratic principles. The electoral process aims to select candidates for political office in a country at different levels. The implementation of elections is conceptually carried out through the "transfer" of some of the power and the right to represent the people in parliament and government. The

people can hold the government accountable through this mechanism^[1].

Persons with disabilities themselves are defined as anyone who experiences physical, intellectual, mental, and/or sensory limitations for a long period of time who in interacting in the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights. In article 4 paragraph (1) of the Law on Persons with Disabilities, it is stated that the various types of persons with disabilities include: a. Persons with physical disabilities; b. People with intellectual disabilities; c. Persons with mental disabilities; and/or d. People with sensory disabilities. The General Election

Commission of the Republic of Indonesia (KPU RI) noted that there are 43,769 people with mental disabilities who have the right to vote in the 2019 elections. This number is expected to increase because data collection is still ongoing [2].

KIP Banda Aceh City for the fulfillment of the basic rights of people with disabilities "immediately prepare a draft of the disability voter list for people with disabilities in the city of Banda Aceh reaching 494 people consisting of; 80 people are visually impaired, 56 are deaf/speech-impaired, 81 are visually impaired, 60 are visually impaired and 217 other disabilities are in the city of Banda Aceh. In exercising their voting rights in the 2019 elections, it is certainly the duty of the Banda Aceh City KIP to provide wide access for people with disabilities through the provision of facilities and procedures with a disability perspective, because it is their right to have a disability. Providing access here to realize equal opportunities in political life". That is, which means equal justice for every and all Indonesia people.

For the fulfillment of the rights of persons with disabilities, as a country that upholds the law, Indonesia continues to follow developments so that little by little the rights of persons with disabilities can be fulfilled. Human rights and democracy began with the birth of Law Number 4 of 1997 concerning persons with disabilities, then Indonesia also ratified the convention on the rights of persons with disabilities through Law Number 19 of 2011 and the last was the birth of Law Number 8 of 2016 concerning Persons with Disabilities. This development provides a wide space and guarantee for the fulfillment of the rights of persons with disabilities in order to achieve justice and improve welfare for persons with disabilities. For this reason, it is necessary to have an election mechanism that is specifically designed to accommodate the needs of people with disabilities which is in accordance with other elements in the meaning of justice.³ In relation to the KPU's strategic plan as explained above, the Independent Election Commission (KIP) of Banda Aceh City held simultaneous general elections (Elections) in the last 5 (five) years, namely from 2019 to 2024. Namely the election in 2019 and the simultaneous election in 2024. In the 2019 general election, the number of DPT people with disabilities in Banda Aceh City was 7,138 voters, according to KIP Aceh data, and 497 voters with disabilities registered in the Banda Aceh City DPT. Of these, only 204 people exercised their right to vote in the 2019 general election. This means that the participation of voters with disabilities at that time only reached 41.5%. Thus, the total information on voters with disabilities in the 2024 general election in Banda Aceh City is 751 people. Of the 751 voters with disabilities, only 315 people will exercise their right to vote in the 2024 election [4].

Results and discussion of research on the fulfillment of constitutional rights of persons with disabilities in the implementation of elections in Banda Aceh city.

Based on the results of observations and data analysis related to participation in the election with disabilities in the 2024 election, several problems related to participation in the election with disabilities in the city of Banda Aceh were obtained, namely, the total data of voters with disabilities in the 2024 election in the city of Banda Aceh was 751 people.

Of the 751 voters with disabilities, only 315 exercised their right to vote in the 2024 General Election. Although there is an increase from the previous year, it is still far from the goal of achieving the voting rights of people with disabilities.

The data attached by the Banda Aceh City KIP, especially for voters and the participation of Persons with Disabilities, are incomplete in the presentation of data for the general public to see. Thus, it is a limitation in looking at the data on the number of voters and the participation of Persons with Disabilities. The following is a summary of voter data and participation of people with disabilities in the 2019 and 2024 elections in the city of Banda Aceh".

The low participation of voters with disabilities in the 2024 election in the city of Banda Aceh is not the first phenomenon that has occurred in the election in the city of Banda Aceh. As explained above, in the city of [3, 4] Banda Aceh in the 2019 election, the participation of voters with disabilities was also relatively low, only reaching a few percent. As one of the indicators that determine the quality of elections, it is important to discuss the issue of political participation, especially the participation of voters with disabilities. This research can be used as one of the barometers to realize inclusive elections, whether Persons with Disabilities as part of the citizens have the same opportunity to be elected and vote without discrimination in elections" [5].

Conditions on the ground show that accessibility in the election has not really happened. TPS with steps makes it difficult for wheelchair users. Ballots without special templates make it difficult for people with visual impairments to choose or choose incorrectly, resulting in invalid ballots or deemed damaged. There is a rejection of people with mental disabilities who are considered unable to exercise their rights due to their mental condition. Pandemic conditions have limited the movement space of people with disabilities. ⁶People with disabilities due to certain diseases, of course, limit themselves to leaving the house. It takes hard work and smart work to meet the target, this needs to be done seriously. For example, the fulfillment of accessibility for people with disabilities in the form of physical readiness of polling stations, the provision of special templates for the visually impaired and their companions at the time of voting. The rights of persons with disabilities are basically regulated in Law Number 7 of 2017 concerning Elections. In addition to affirming the political rights of people with disabilities, the law also explains that they have the right to have access to channel their choices. Article 5 of Law Number 7 of 2017 Persons with disabilities who meet the requirements have the same opportunity as voters, as candidates for members of the House of Representatives, candidates for members of the DPD, candidates for President/Vice President, candidates for members of the DPRD, and election organizers.

In terms of fulfillment in the constitutional rights, Persons with Disabilities have not fully obtained the fulfillment rights that should be carried out as written in the laws and regulations. The Constitution itself mandates that the state, especially the government, is responsible for fulfilling political rights without discrimination and the right to obtain special facilities and treatment for persons with disabilities in obtaining equal opportunities to exercise their voting rights in elections. Guidelines for the implementation of the constitutional mandate will be discussed further in the

various regulations below, namely Law Number 39 of 1999 concerning Human Rights which is regulated in Article 43 paragraphs 1 and 2, while the legal basis that inspires the special treatment obtained for persons with disabilities. The fulfillment of political rights in elections is regulated in Article 5 paragraph 3.10. Although there are many regulations on accessibility in the constitution and laws and regulations, in their implementation these regulations have not been implemented optimally. In elections, people with disabilities often encounter obstacles in exercising their rights. In fact, in Law Number 8 of 2016 concerning Persons with Disabilities, the political rights of persons with disabilities are fully guaranteed by the government, but Article 75 paragraph 2 of the Law states: the government and local governments are obliged to guarantee rights and opportunities for people with disabilities to vote and be elected ^[7].

Research solution for the function of fulfilling the constitutional rights of persons with disabilities in the implementation of elections in Banda Aceh city.

Whether the election is successful or not, one of the indicators that can be seen is the level of voter political participation. The political participation of the Banda Aceh people in the 2006 Regional Elections was only 59.41%, 2012 56.32%, and 2017 63.92%. while for the Legislative Election the public participation in the 2009 Election was only 60.19%, the 2014 Election was 62.00%, then in the 2009 Presidential Election the participation was 63.41%, the 2014 Presidential Election was 53.00%, 68 in contrast to the 2019 Election which had a very high participation rate from the previous year which was 78.63%, based on the data presented above it can be said that the level of community participation experienced the fluctuation of each election. This can be studied from several crucial causes, including: security issues, money politics, minimal public political awareness, lack of socialization models carried out by the organizers are the main factors that encourage the level of community participation in Banda Aceh City.

Based on the results of an interview with the commissioner of KIP Banda City, Banda Aceh, an overview was obtained that the level of public concern for the election at that time was still very minimal. In addition to security issues, the public also does not have a sufficient understanding related to political education. This was also conveyed by The Aceh Institute from the case report received that the security issues ahead of the election are very troubling to the community, even people are afraid to attend the campaign site organized by political parties because of various threats, acts of terror and other warnings that threaten the safety of themselves and their families if the community is present at the campaign site, on the basis of these considerations. People are not present at the campaign site, and do not exercise their right to vote because they are traumatized by the threatening conditions. one of the things that makes people interested in coming to the socialization site is because of the issue of the Presidential Election, the community wants to see what the neutral attitude of the KIP in the 2024 Election will be like, whether the KIP will discuss the Presidential Election and direct the public to focus on the Presidential Election only or the neutral KIP only discusses related to election management which includes the voting schedule, checking whether or not people are in the DPT, voting procedures, and the introduction of 5 ballot papers,

so these reasons encourage people to attend the socialization site. At the time of the socialization, it turned out that the attitude of KIP was neutral, did not lead the public to support certain candidate pairs, KIP conducted socialization in accordance with the rules that had been in force. This is in accordance with the results of an interview with KIP Banda Aceh which stated that "at the time of socialization, there was no difference in socialization carried out between the Presidential Election and the Legislative Election. Socialization is carried out in general and includes both, there is no special socialization for the Presidential Election and the Legislative Election, all have been included into one. The implementation of the election is the same, so the socialization carried out is the same, not separated, if the implementation of socialization is separated, what is worried is the ineffectiveness of the time when KIP will not meet again with the same socialization participants. The most important thing for socialization is to provide understanding to the public related to their voting rights, then explain related to what elections will be carried out in the 2019 elections, explain to the public the procedures for choosing and inform the public to register with the DPT.⁹ KIP Banda Aceh City in carrying out the fulfillment of voting rights for people with disabilities, This is in accordance with the results of an interview with KIP Banda Aceh which stated that "in carrying out the fulfillment of voting rights for people with disabilities, KIP Banda Aceh City conducts socialization both to election officers, supervisors, rewan and to the people with disabilities themselves. In addition, the KPU also conducts socialization to organizations of persons with disabilities (OPD) to open access to information to people with disabilities who are active in the community. However, on the other hand, the population of people with disabilities outside the community is still much larger and untouched by access to election information. The reason is because the education process for voters for people with disabilities is still considered lacking so that it does not reach people who are outside the community".

One of the OPDs invited by the Banda Aceh City KIP is the Indonesia Association of Persons with Disabilities (PPDI) which has now changed its name to the Indonesia Association of Persons with Disabilities which is an umbrella organization and consists of various disability organizations in Indonesia which was established in 1987. However, so far the organizers are still in the process of providing socialization to people with disabilities in terms of voting and election procedures. The obstacle that emerged from the Banda Aceh City KIP was the difficulty in delivering socialization materials to people with disabilities. The organizers are still at the level of providing socialization to people with disabilities in terms of voting and election procedures. The obstacle that emerged from the Banda Aceh City KIP was the difficulty in delivering socialization materials to people with disabilities.¹⁰

Conclusion

The mechanism for exercising voting rights for persons with disabilities in the 2024 Election in Banda Aceh City by collecting data on voting rights for persons with disabilities so that voting rights for persons with disabilities can be fulfilled, an effort to ensure that every person with disabilities who has qualified as a voter in the election is registered in the permanent voter list. Socialization to

election officers, supervisors, volunteers and to people with disabilities themselves. The KPU also conducts socialization to organizations of people with disabilities who are active in the community. The lack of optimal work of KIP in practice in the field, both in terms of facilities and infrastructure and in the implementation in the field, facilities in the election there is no difference between people with disabilities and ordinary people, everything is normal, socialization is not understood by people with disabilities, lack of clarity in the socialization that KIP Banda Aceh City does and people with disabilities cannot reach the location of the polling station which may be said to be difficult for people with disabilities to go through from house, because of the location of voting, so it is difficult for people with disabilities, especially the blind, to reach the polling station themselves without being accompanied by relatives or neighbors.

The existence of the Aceh Provincial General Election Supervisory Committee in the 2024 Legislative General Election has not been fulfilled and implemented optimally, because currently the Aceh Provincial Panwaslih is still experiencing difficulties and maximizing its good role in supervising and handling violations that occur in the 2024 legislative election. obstacles in supervision and handling of fulfillment are still not optimal due to the lack of human resources and human resource backgrounds that are in accordance with the duties and authorities of the Aceh Panwaslih. As well as special rules that are more firm and detailed related to the authority and authority of Panwasli to be able to maximize supervision and handling of election violations, as well as a clear division of duties between relevant stakeholders in order to further increase synergy towards better elections and be able to handle election violations to the maximum.

The obstacles of the Aceh Provincial Election Supervisory Committee in cracking down on violations of the Legislative General Election in Aceh have not been maximized due to internal and external obstacle factors, internal obstacle factors such as lack of human resources and human resources that are in accordance with the background with roles and responsibilities. External obstacle factors such as lack of synergy between stakeholders such as in the Gakkumdu center, difficulties in obtaining witnesses to testify, as well as reported legislative candidates who are uncooperative and so on. This obstacle factor is what makes the Aceh Provincial Election Supervisory Committee constraint in cracking down on violations of the Legislative General Election in Aceh.

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