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## Evaluation of the Fulfillment of Political Rights for Persons with Disabilities to Welcome the 2024 General Election

Article	Abstract
<p><b>Author</b> Wiwit Pratiwi<sup>1*</sup>, Sherly Nelsa Fitri<sup>2</sup>, Zico Junius Fernando<sup>3</sup>, Jaco Barkhuizen<sup>4</sup>.</p> <p><sup>1,2</sup> Faculty of Law, Universitas Prof. Dr. Hazairin, SH, Bengkulu, Indonesia <sup>3</sup> Faculty of Law, Universitas Bengkulu, Indonesia <sup>4</sup> University of Limpopo, South Africa</p> <p><b>Corresponding Author:</b> *Wiwit Pratiwi, Email: wpratiwi170993@gmail.com</p> <p><b>Data:</b> Received: Mar 02, 2023 Accepted: Jun 20, 2023 Published: Jun 27, 2023</p> <p><b>DOI:</b> 10.24090/volksgeist.v6i1.7886</p>	<p>2024 is the year of simultaneous general elections. All citizens can participate, and every vote counts, including that from people with disabilities. This paper aims to determine the fulfilment of the political rights of persons with disabilities in general elections in Bengkulu City to welcome the general elections to be held simultaneously in 2024. This legal paper used an empirical method with a qualitative approach by collecting primary data from persons with disabilities in Bengkulu City. In-depth interviews were used to find out the fulfilment of the political rights of persons with disabilities in the general elections in Bengkulu City. This paper concludes that the political rights of persons with disabilities in elections in Bengkulu City had not been fulfilled optimally. These rights included the rights to (i) be registered to cast a vote, (ii) access polling stations (TPS), (iii) cast their votes confidentially, (iv) receive information, including information about the elections, and (v) take part in elections. This was because the organizers, namely KPU, failed to play their role optimally. They failed because they had limited funding and persons with disabilities themselves were self-isolating and did not know their political rights.</p> <p><b>Keywords:</b> <i>General election; persons with disabilities; political right.</i></p>

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### INTRODUCTION

Human rights, according to Khoiril Anam, are the basic rights owned by and attached to every human being, which are the personal rights and given by the Creator throughout their life. These rights also create other rights, including political rights. Having political rights means that every citizen can participate in how the country they live in is governed, exercise the right to cast a vote and be elected in elections, as well as join and establish certain political parties.<sup>1</sup>

<sup>1</sup> Khoiril Anam, *Pendidikan Pancasila Kewarganegaraan Untuk Mahasiswa* (Yogyakarta: Inti Media, 2011).

Looking at it from the Indonesian state constitution perspective, the right to cast a vote and be elected are those rights protected by and recognized in the Constitution of the Republic of Indonesia.<sup>2</sup> The provisions governing this issue are Article 27 Paragraph (1), Article 28D Paragraph (3), and Article 28E Paragraph (3). Furthermore, it is also stated in Article 43 Paragraph (1) of Law Number 39 Year 1999 concerning Human Rights. Every citizen has the right to be actively involved in political life. This right is contained in various legal provisions, both international and national ones. Persons with disabilities, as part of Indonesian citizens, also share this right to be actively involved in political life in accordance with Article 21 of the Universal Declaration of Human Rights, Article 25 of the Covenant of Civil Rights, Article 28D paragraph (3), Article 28H Paragraph 2 and Article 28I Paragraph (2) of the 1945 Constitution after amendments. Moreover, Article 43 Paragraphs (1) and (2) of Law No. 39 Year 1999 concerning Human Rights emphasizes that every citizen has the right to equal opportunities in government, both to be elected and to cast a vote without discrimination.<sup>3</sup> As the concept of every citizen has the right to equal opportunities in government, both to be elected and to cast a vote without discrimination, illustrates the equality of rights among human beings, there should be no difference towards persons with disabilities. However, in reality persons with disabilities often get improper treatment, and this hinders the fulfilment of their rights.<sup>4</sup> The Indonesian government's efforts to fulfil the rights of persons with disabilities were the enactment of Law Number 4 Year 1997 concerning Persons with Disabilities which has been amended with Law Number 8 Year 2016 concerning Persons with Disabilities. The country went even further when it ratified the Convention on the Rights of Persons with Disabilities through Law Number 19 Year 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities.

The right to vote is a form of political participation as part of the civil-political rights group which refers to the Covenant on Civil and Political Rights or the International Convention on Civil and Political Rights (ICCPR).<sup>5</sup> Political rights are part of the participation in the state government through the right to vote and be elected. Implicitly, these political rights are categorized in the derogable rights group, meaning the rights guaranteed by the state, yet under an emergency circumstance, these rights can be reduced without discrimination.<sup>6</sup>

These provisions serve as the legal basis for every Indonesian citizen's freedom to participate in determining, through election, those who will represent them, be it in the legislature or as the executive leader. In this way, every citizen who will use this right in every election must be free from all things that can cause fear and all forms of discrimination to channel their right to vote and be elected in every election process. It can therefore be interpreted that the right to be elected as part of the right to vote is one of human rights that can be implemented in democratic general elections.

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<sup>2</sup> "Undang-Undang Dasar Negara Republik Indonesia 1945" (n.d.).

<sup>3</sup> "Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia," Pub. L. No. Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia (1999).

<sup>4</sup> Mugi Riskiana Halalia, "Pemenuhan Hak Politik Penyandang Disabilitas Sesuai Dengan Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas Oleh Komisi Pemilihan Umum (KPU) Kota Yogyakarta," *Jurnal Supremasi Hukum* 8, no. 2 (2017): 3.

<sup>5</sup> Miriam Budiarjo, *Dasar-Dasar Ilmu Politik* (Jakarta: PT. Gramedia Pustaka Utama, 2013).

<sup>6</sup> Budiarjo.

Based on a series of national laws and regulations on political rights, there is not a single provision that is discriminatory in nature. Therefore, in this context, the right of persons with disabilities to vote or to be elected must be guaranteed and they need to be actively involved in every momentum in this context, namely elections. In terms of the right to vote, persons with disabilities must have a friendly access to these elections and their officials who understand the special needs of persons with disabilities. In terms of the right to be elected, persons with disabilities must be allowed to participate in every election activity, and have the same access as others to take part in election contests through the channels provided by the applicable laws and regulations.

However, these regulations are not sufficient to guarantee the rights of persons with disabilities to participate in elections. Their political rights are still being ignored. Some regulations neglect the accessibility of elections for persons with disabilities in elections to exercise their political rights, including<sup>7</sup>: the rights to (i) be registered to cast their votes, (ii) access voting stations, (iii) cast their votes confidentially, (iv) be elected as a member of the legislature, (v) access information, including information about the election, and (vi) join the election organizers. In contemporary state administration, in both its theory and practice, organizing a free and fair general election has been a rule and necessity at the same time<sup>8</sup>.

However, many obstacles are still found at various stages and in electoral mechanisms that seemingly discriminate against persons with disabilities. Furthermore, the monitoring conducted by the Center for Disability Integration and Advocacy (SIGAB), together with organizations concerned with other disability rights in the 2014 election, found several problems faced by persons with disabilities, both from facilities and infrastructure in the implementation of the election.<sup>9</sup> At the election stage, for example, obstacles ranging from voter data update to the voting and to counting of votes were still found. In Bengkulu, ahead of the election and during the election, no public service advertisements for persons with disabilities were made, certain persons with disabilities were not registered on the voter list, announcements or dissemination of the election stages did not take into account the needs of the deaf and blind people to allow them to access the information. Another obstacle was that many people with moderate and severe mental retardation could not cast their votes. In the election process, several TPS were inaccessible for wheelchair users, forcing the officers to approach them to cast their vote. Some deaf people failed to respond when their names were called for their turn to vote, and thus were considered non-existent. Above all, the voting system was considered inconsistent in elections.

At technical level, one of the obstacles to persons with disabilities during elections that fail to heed the aspirations of persons with disabilities include the requirement to be “physically and mentally healthy” which is detrimental especially to legislative candidates with disabilities. Also, neither clear definition of what violations of election access are nor the resolution to them are set. In addition, several laws and regulations limit the rights of persons with disabilities to exercise their political rights. For example, no laws that supports the principle of non-discrimination in the

<sup>7</sup> Budiarjo.

<sup>8</sup> Sirajuddin, Febriansyah Ramadhan, and Ilham Dwi Rafiq, “Urgensi Pemisahan Penyelenggaraan Pemilihan Umum Serentak Nasional Dan Lokal,” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 2 (2021): 235, <https://doi.org/10.24090/volksgeist.v4i2.5232>.

<sup>9</sup> Henny Andriani and Feri Amsari, “Hak Pilih Kelompok Penyandang Disabilitas Dalam Pemilihan Umum Tahun 2019 Di Sumatera Barat,” *Jurnal Konstitusi* 17, no. 4 (2021): 777–98, <https://doi.org/10.31078/jk1744>.

election law have been enacted and the inclusion of physical and mental health requirements is a detrimental term that fail to comply with Law Number 36 Year 2009 concerning Health.<sup>10</sup>

This research focuses on discovering the political rights of persons with disabilities in general and assessing whether Bengkulu is ready to fulfil the political rights of persons with disabilities in the 2024 general election in particular. Gemiharto, in his research, discusses the regional head elections in Cimahi, West Java, which took place in 2017 and explains that the election was better organized in the regency than the previous year.<sup>11</sup> In his research, Nasution discusses the political rights of persons with disabilities in the Yogyakarta and the barriers for them to access their political rights in general elections.<sup>12</sup> Furthermore, Andriani and Amsari in their study discuss the right to vote for persons with disabilities in the 2019 general election in West Sumatra, and conclude that they lack facilities and infrastructure to allow people with disabilities to exercise their right to vote in the elections.<sup>13</sup>

As a 5-year agenda, the general elections demand an active role from the participating people and political parties that accommodate this participation. In addition, it is the obligation of these political parties to provide political education to the public to allow them to participate and prevent them from being apathetic in its implementation. Also, it serves as a forum for the community to be actively involved in the democratic process and the management of a country, because political parties in a hierarchical sense are meant to act as mediators between the community and the government in channelling the people's aspirations. Ideally, this also applies to persons with disabilities who, as fellow Indonesian citizens, share the same rights as other residents of Indonesia. Considering that most, if not all, regions in Indonesia have persons with disabilities, their political rights must be taken into account and fulfilled, both to vote and to be elected. Their large number makes their votes all the more important and their involvement (to be elected) will greatly determine the changes in the nation going forward and more specifically the changes needed for persons with disabilities themselves.

This is the background for the author through this research to find out Bengkulu's readiness to fulfil the political rights of persons with disabilities to welcome the 2024 general election.

## RESEARCH METHODS

This research is empirical research and used a qualitative method with a descriptive analysis approach. This would systematically reveal various findings in the study. The primary and secondary data could be obtained simultaneously in the field. This was intended to optimize the limited research time. The primary data was collected using in-depth interviews, and the secondary data was collected from various sources such as the mass media, literature and news on the internet.

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<sup>10</sup> Imma Indra Dewi, "Hak Politik Disabilitas," Universitas Atmajaya Yogyakarta, 2022, <https://fisip.uajy.ac.id/2022/02/12/hakpolitik-penyandang-disabilitas/>.

<sup>11</sup> Ilham Gemiharto, "Upaya Pemenuhan Hak Politik Penyandang Disabilitas Dalam Pemilihan Umum Di Indonesia," *Seminar Iqra* 1, no. 1 (2017): 1581–90.

<sup>12</sup> Hilmi Ardani Nasution and Marwandianto Marwandianto, "Memilih Dan Dipilih, Hak Politik Penyandang Disabilitas Dalam Kontestasi Pemilihan Umum: Studi Daerah Istimewa Yogyakarta," *Jurnal HAM* 10, no. 2 (2019): 161–78, <https://doi.org/10.30641/ham.2019.10.161-178>.

<sup>13</sup> Andriani and Amsari, "Hak Pilih Kelompok Penyandang Disabilitas Dalam Pemilihan Umum Tahun 2019 Di Sumatera Barat."

Sources and key informants in this study were determined by purposive sampling. Informants in this guided interview were election organizers and the disability community.

## ANALYSIS AND DISCUSSION

### Persons with Disabilities

One of the vulnerable and minority groups whose number has reached 600 million people, or 2/3 of the total population in developing countries, is people with disabilities. During the first three decades of the UN's existence, the existence of people with disabilities was neglected.<sup>14</sup> As suggested by the drafters of the International Bill of Human Rights, persons with disabilities, as a group vulnerable to human rights violations, are not included in its rules.<sup>15</sup>

Persons with Disabilities are any person who experiences physical, intellectual, mental, and/or sensory limitations over a long period who in interacting with the environment may experience obstacles and difficulties to interact fully and effectively with other citizens based on equal rights.<sup>16</sup>

People with disabilities are a diverse group of people in society, including people with disabilities who have physical or mental disabilities and a combination of both. The terms used to refer to people with disabilities are also highly diverse. The Ministry of Social Affairs and Ministry of Health, for example, refer to them as *penyandang disabilitas* (persons with disabilities). Meanwhile, the Ministry of National Education refers to them as *orang berkebutuhan khusus* (persons with special needs).<sup>17</sup>

WHO defines disability as “A restriction or inability to perform an activity in the manner or within the range considered normal for a human being, mostly resulting from impairment”.<sup>18</sup>

In addition to the general definition, WHO also puts forward the definition of disability based on the social model as follows:<sup>19</sup>

1. Impairment, i.e., incompleteness or abnormality, is accompanied by its consequences for certain functions. For example, paralysis in the lower part of the body is accompanied by the inability to walk on both legs.
2. Disability/handicap is a loss/limitation in a particular activity as a result of social factors that little or do not take into account people bearing a certain “damage/weakness” and therefore remove those people from the flow of social activity.

Disability can be caused by various factors, namely:<sup>20</sup>

1. Acquired disability, the cause can be a traffic accident, war/armed conflict or chronic diseases.

<sup>14</sup> Anak Agung Istri Atu Dewi, “Aspek Yuridis Perlindungan Hukum Dan Pemenuhan Hak Penyandang Disabilitas,” *Jurnal Pandecta* 13, no. 1 (2018): 55, <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/13933>.

<sup>15</sup> Theresia Degener, “International Disability Law- A New Legal Subject on the Rise,” *Berkeley Journal of International Law* 18, no. 1 (2000): 187.

<sup>16</sup> “Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas” (2016).

<sup>17</sup> et. al Eko Riyadi, *Vulnerable Groups: Kajian Dan Mekanisme Perlindungannya* (Yogyakarta: PUSHAM UII, 2012).

<sup>18</sup> Et.al. Eric Barbotte, “Prevalence of Impairments, Disabilities, Handicaps and Quality of Life,” *Bulletin of the World Organization* 79, no. 11 (2001), [www.who.int/bulletin/archives/volume79\\_11/en/](http://www.who.int/bulletin/archives/volume79_11/en/).

<sup>19</sup> Coleridge Peter, *Pembebasan Dan Pembangunan, Perjuangan Penyandang Cacat Di Negara-Negara Berkembang* (Yogyakarta: Pustaka Pelajar, 2007).

<sup>20</sup> Risnawati Utami and Supto Nugroho, *Meretas Siklus Kecacatan-Realitas Yang Terabaikan* (Surakarta: Yayasan Talenta, 2008).

2. Congenital defects/from birth, the causes include abnormalities in the formation of organs (organogenesis) during pregnancy, virus attacks, malnourishment, uncontrolled use of drugs or sexually transmitted diseases.

Persons with disabilities can be grouped as follows:<sup>21</sup>

1. Blind, i.e., a person who cannot see with both eyes. Blind people may have the ability to detect objects around them by maximizing their hearing ability through the sounds or vibrations they hear. In addition to being completely blind, some people have partial blindness and fail the test to count the number of fingers from a three-meter distance.
2. Deaf, i.e., a person who cannot hear like normal people in general. People who have not too severe hearing disabilities can still use hearing aids to allow them to hear well again.
3. Speech impaired, i.e., a person who cannot talk to others. Speech impaired people are usually caused by undetected hearing problems from birth, causing the child to have difficulty to learn to speak normally. A person can also experience a selective mute when they become mute under certain situations and conditions.
4. Quadriplegic, i.e., a person who has a physical disability, body defect, abnormality, damage and so on caused by brain damage, spinal nerve damage, accidents, defects since birth, and so on. The easiest example of a quadriplegic is a person whose hands and legs are stumped, paralyzed, one of their legs are smaller, and so on.
5. Mentally disabled, i.e., a person who is mentally retarded, making their level of intelligence below the average person in general. The mentally retarded characteristics can usually be seen in physical abnormalities as well as from abnormal behaviors frequently shown in everyday life.
6. *Tunalaras*, i.e., a person who has difficulties in self-financing such as emotional control problems, difficulty to get along with others, being happy to be alone, low self-confidence, being happy to do evil, being ashamed to appear in public, and so on. In addition, people with disabilities in voice and tone are also included in this *tunalaras* group.
7. Double disabled, i.e., a person who has more than one disability. For example, people who have stumped hands while experiencing permanent blindness, or people whose mentally retarded at the same time have disabilities in their hearing (deafness) and others.

### **Political Rights of Persons with Disabilities**

The Indonesian constitution regulates several human rights after the second amendment to it. One of these rights is the right to participate in government administration. This right includes political rights, which are divided into two, namely the right to vote and the right to be elected. Political rights at international level are set forth in UNGA Resolution 2200A (XXI) that ratifies the Covenant on Civil and Political Rights together with the Optional Protocol to the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. Indonesia has ratified it through Law Number 12 Year 2005 concerning the Ratification of the International Covenant on Civil and Political Rights. Political rights are the rights that originate from human dignity and are inherent in every human being whose existence is guaranteed and respected by the

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<sup>21</sup> Yustinus Semium, *Kesehatan Mental* (Yogyakarta: Kansius (Anggota IKAPI), 2007).

state in such a way that humans are free to enjoy their political rights the fulfilment of which shall be the responsibility of the state.<sup>22</sup>

Political rights are not only attached to everyone, both non-disabled people and persons with disabilities, especially in general elections. The political rights of persons with disabilities are listed in the following articles:

1. Article 27 Paragraph (1) of the 1945 Constitution of the Republic of Indonesia reads “All citizens have the same position before law and government and are obliged to uphold that law and government without exception.” The article guarantees equality in political life for every citizen. Since the doctrine of universal human rights develops positively, the rights of persons with disabilities are not directly explained.<sup>23</sup>
2. Article 28 letter (i) paragraph 2 of the 1945 Constitution of the Republic of Indonesia reads “Everyone has the right to be free from discriminatory treatment on any basis and has the right to protection against discriminatory treatment.” This article guarantees that no discrimination against every citizen is allowed.
3. Article 28 letter (h) paragraph 2 of the 1945 Constitution of the Republic of Indonesia reads “Every person has the right to get facilities and special treatment to obtain the same opportunities and benefits to achieve equality and justice”. This article explains justice and equality to citizens.
4. Article 5 of Law Number 7 of 2017 concerning General Elections reads “Persons with disabilities who meet the requirements shall have the same opportunities as other voters, as candidates for members of the House of Representatives (DPR), as candidates for members of Regional Representative Council (DPD), as candidates for President/Vice President, as candidates for Regional People’s Representative Council (DPRD) members, and as election organizers”. This article explains that when people with disabilities meet the requirements, they can have the same opportunity to be voters or to be candidates.
5. Article 41 paragraph (2) of Law Number 39 Year 1999 concerning Human Rights reads “Every person with disabilities, the elderly, pregnant women, and children have the right to receive special facilities and treatment.” This article explains that persons with disabilities, elderly people, pregnant women and children have the right to receive special treatment.
6. Article 42 of Law Number 39 of 1999 concerning Human Rights regulates the right to obtain a guarantee of decent life related to care, education, training and special assistance at the state’s expense for the elderly and people with physical or mental disabilities.
7. Article 13 of Law Number 8 Year 2016 concerning Persons with Disabilities states that every person with disabilities has the same rights in obtaining and exercising political rights to vote and be elected to channel their aspirations, to be election participants, to be a member of a political party, and to gain accessibility in elections and political education. Then Articles 75, 76 and 77 of Law Number 8 Year 2016 state the political rights of persons with disabilities. Furthermore, the provisions related to providing good accessibility for persons with disabilities for the blind are contained in Article 142 (2) of Law Number 8 Year 2012 concerning Elections of Members of DPR, DPD and DPRD. However, accessibility according to this article does not apply to all persons with disabilities because only the blind is referred to. This is contrary to the definition of

<sup>22</sup> Dewi, “Hak Politik Disabilitas.”

<sup>23</sup> Dewi.

persons with disabilities in Article 1 (1) of Law Number 8 Year 2016 which states that it includes everyone who has physical, intellectual, mental and sensory limitations.<sup>24</sup>

### **Implementation of General Elections for Persons with Disabilities in Bengkulu City**

Frans Magsin Suseno, as quoted in Hendra Nurtjahjo's Philosophy of Democracy, states that a democratic state has five characteristics, namely a rule of law, a government that is under real control of the people, free elections, the principle of a majority and guarantees of democratic rights.<sup>25</sup>

The quotation above shows that a country cannot be said to be a democratic one if the characteristics of a democratic state have not yet been implemented in it. Another opinion is stated by Henry B. Mayo, as explained by Ni'matul Huda, who defines democracy as a political system in which public policy is determined based on a majority by representatives who are effectively supervised by the people in periodic elections based on the principle of political equality and held in an atmosphere of guaranteed political freedom.<sup>26</sup> A system cannot be said democratic enough if it still excludes a political election right from a group including persons with disabilities.

Political rights has a very broad scope. However, the extent to which the political rights of persons with disabilities is fulfilled can largely be seen in the general election process. In this case, the General Elections Commission as the election organizer with its duties and authorities ranging from the election planning to its implementation should ensure that the political rights of every citizen are fulfilled without exception, including those of persons with disabilities.

Efforts to attract the participation of persons with disabilities in elections have been carried out by the General Election Commission since 2020. In the same year, an additional column for persons with disabilities had been included in the process of data collection of voter list. However, several regional general election commissions still ignored the Disabilities column during the 2020 elections. Based on a survey conducted by Inclusive Community Partners (MMI) for Bengkulu chapter, many voters with disabilities could not exercise their right to vote in the 2020 elections in Bengkulu City due to the absence of both the follow-up actions and special facilities for persons with disabilities.

The political rights of persons with disabilities are still being ignored. Many obstacles and discrimination at various stages and electoral mechanisms for persons with disabilities, from voter list data update to voting and vote counting, were still found. These include such facts as: access to election information was still limited, no public service advertisements were made for persons with disabilities, certain persons with disabilities were not registered on the voter list, announcements or dissemination of election stages did not take into account the needs of access to information for the deaf and blind people, and their access to the names of legislative candidates was limited. Another obstacle was that many people with moderate and severe mental retardation could not vote. When the election was organized, several voting stations (TPS) were inaccessible for wheelchair users, forcing the officers to approach them to cast their vote. Some deaf people could not hear when their names were called for their turn to vote and thus were considered non-existent. Above all, the vote (ticking) system was considered inconsistent.<sup>27</sup>

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<sup>24</sup> Dewi.

<sup>25</sup> Dewi.

<sup>26</sup> Ni'matul Huda, *Ilmu Hukum*, 1st ed. (Jakarta: Rajawali Pers, 2011).

<sup>27</sup> Huda.



Moreover, the General Election Commissions (KPU) had the difficulty in conveying the dissemination materials to persons with disabilities. This was because of their special needs that must be considered. The level of voter turnout among people with disabilities was still low for these two regions. Many of them were included in the final voter list (DPT), yet at the time of the voting they did not vote. In increasing participation in elections for persons with disabilities, the organizers could not work alone. It required the cooperation of all parties, both the families of persons with disabilities themselves and other stakeholders.

Apart from regulations that were still subject to multiple interpretations, both among persons with disabilities, election organizers and even political parties, many persons with disabilities still found it hard to participate in election disseminations. The places designated for political campaigns were less friendly to persons with disabilities, resulting in some persons with disabilities failing to access them. In addition, some candidates with disabilities were hindered as a result of speech impairment. No facilities for campaigns for people with disabilities were available.<sup>28</sup> The problem of public service facilities, especially access services, was still very far from the expectations of persons with disabilities, a problem that seemingly could not be resolved in the near future. It needed to be equipped with various disabled-friendly facilities, such as ramps for wheelchair platforms, special lanes for the blind, and directions.<sup>29</sup>

At technical level, the elections did not heed the aspirations of persons with disabilities including the use of the term “physically and mentally healthy” which was detrimental, especially for legislative candidates with disabilities. Neither clear definition of violations of election access nor the resolution to it had been set. In addition, several laws and regulations limited the rights of persons with disabilities to exercise their political rights. For example, no law that supports the principle of non-discrimination in the election law had been enacted. The inclusion of physical and mental health requirements was also a detrimental term that failed to comply with Law Number 36 Year 2009 concerning Health.

In reality, persons with disabilities are a marginalized group in the society. Not all of them had the same opportunities, including opportunities in politics. In the last few decades, the issue of disability has become the one that have surfaced on the agenda of various international collaborations and forums, including the United Nations General Assembly (UNGA) No. 37/52 of December 3, 1982. The resolution established the World Program of Action (WPA) concerning Disabled Persons as the world’s first rights-based global strategy to promote prevention, rehabilitation, as well as full participation and equal opportunities for persons with disabilities.<sup>30</sup> Furthermore, UNGA Resolution No. 48/96 of December 20, 1993, further strengthened these efforts by adopting the standard rules regarding equal opportunities for persons with disabilities, recognizing persons with disabilities as agents of development as well as beneficiaries in all aspects of development.<sup>31</sup>

As a 5-year agenda, the general elections demand an active role from the participating people and political parties that accommodate this participation. In addition, it is the obligation of these political parties to provide political education to the public to allow them to participate and prevent them from being apathetic in its implementation. Also, it serves as a forum for the community

<sup>28</sup> Huda.

<sup>29</sup> Huda.

<sup>30</sup> PBB, “PBB Komisi Ekonomi Dan Sosial Untuk Asia Dan Pasifik, Strategi Incheon Untuk ‘Mewujudkan Hak’ Penyandang Disabilitas Di Asia Dan Pasifik,” PBB, 2021.

<sup>31</sup> PBB.

to be actively involved in the democratic process and the management of a country, because political parties in a hierarchical sense are meant to act as mediators between the community and the government in channelling the people's aspirations. Ideally, this also applies to persons with disabilities who, as fellow Indonesian citizens, share the same rights as other residents of Indonesia. Considering that most, if not all, regions in Indonesia have persons with disabilities, their political rights must be taken into account and fulfilled, both to vote and to be elected. Their large number makes their votes all the more important and their involvement (to be elected) will greatly determine the changes in the nation going forward and more specifically the changes needed for persons with disabilities themselves.

### **Evaluation of the Fulfillment of Political Rights for Persons with Disabilities in General Election in Bengkulu City**

From a public perspective, it can be said that public service is a reflection of how the state is managed in serving its citizens based on the social contract of state formation by its constituents. In this case, KPU is acting as a public servant whose role in public service is a form of representation of a government run by the ruling political power. From legal perspective, this public service can be seen as an obligation given by the constitution or legislation to the government to fulfil the basic rights of its citizens.<sup>32</sup> As the election organizer in Bengkulu City, KPU had made efforts to ensure that all citizens, including persons with disabilities, could exercise their rights to vote. This effort was proven by the fact that Bengkulu Provincial KPU collected data on persons with disabilities to be included in the permanent voter list (DPT).

Many people with disabilities had been included in this DPT. Yet, many of them did not show up on the election day to exercise their right to vote. The efforts made by the KPU in ensuring the fulfilment of the right to be elected so far had not been conveyed to persons with disabilities. Their attempt was still limited to providing dissemination to persons with disabilities in terms of the voting and the procedures for selecting disability-friendly polling stations. They had not fully informed these people with disabilities their right to be elected. Several respondents in Bengkulu City admitted that in this case, the dissemination that the organizers did still lacked the information on the rights for people with disabilities to be elected, not just limited to the obligation to vote.

Based on the recapitulation of the analysis of the Electoral Voter Potential Population List (DP4), Bengkulu City had a total of 244,507 voters spread across 791 polling stations.<sup>33</sup> The number of disabled voters in Bengkulu City currently amounted to 488 voters, consisting of 218 voters with physical disabilities, 47 voters with intellectual disabilities, 111 voters with mental disabilities, and 112 voters with sensory disabilities. In percentage, the DP4 for people with disabilities in Bengkulu City reached 0.20% of the total DP4. Meanwhile, the number of disabled voters in Bengkulu Province currently amounted to 4,233 voters or 1.73% of the total DP4.

In order for the political rights of persons with disabilities to be fulfilled, what needs to be done first is to record them in the Permanent Voter List (DPT) or the Supplementary Voter List (DPTb).

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<sup>32</sup> Ade Harsa Suryanegara, "Reformasi Birokrasi Dan Pemenuhan Hak Warga Dalam Mengakses Pelayanan Publik Melalui Mal Pelayanan Publik," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 2, no. 2 (2019): 189–205, <https://doi.org/10.24090/volksgeist.v2i2.2870>.

<sup>33</sup> PBB, "PBB Komisi Ekonomi Dan Sosial Untuk Asia Dan Pasifik, Strategi Incheon Untuk 'Mewujudkan Hak' Penyandang Disabilitas Di Asia Dan Pasifik."

DPT is a list of electronic identity card holders registered in the updated provisional voter list by PPS and determined by KPU/KIP at district/city level. Meanwhile, DPTb is a list of electronic identity card holders registered in DPT who, for certain reasons, cannot exercise their voting rights at the polling station where the said voters are registered in and vote at another polling station. One of the specific reason referred to is people with disabilities who are undergoing treatment in social care/rehabilitation institutions.

In preparation for the voting for persons with disabilities, the Chairman of KPPS assisted by KPPS members submits a Model C6-KPU form to vote for voters registered in DPT in their work area no later than 3 (three) days before the voting day. In this Model C6-KPU form, it should be mentioned that people with disabilities to vote at the polling stations should be facilitated to allow them to cast their vote. The voter signs the receipt for the submission of the Model C6-KPU form, but if the voter is not at their place of residence, the KPPS chairman can submit the Model C6-KPU form right away.

Furthermore, the Chairman of KPPS was assisted by KPPS members to prepare the location and set up the voting station. The voting station is set up at the following location:

1. in accessible places, including for persons with disabilities;
2. no village or other names should be incorporated; and
3. geographical aspects need to be considered and ensure that every voter can cast their vote directly, publicly, freely, and confidentially.

Then, the Chairman of KPPS ensures that the voting and vote counting equipment, and other equipment support have been received by KPPS from PPS, no later than 1 (one) day before the voting day. The voting and vote counting equipment consists of: ballot boxes; ballots; ink; voting booths; seal; tools for voting options; and voting stations. Meanwhile, one of the other equipment supports is intended for people with disabilities, namely visually impaired aids. The aids for the blind are intended for blind voters to vote for the presidential and vice-presidential elections and DPD member elections.

However, at the time of voting, the Chairperson of the KPPS can give priority to voters with disabilities, pregnant women or the elderly to vote with the approval of voters who should have their turn first based on the serial number of the voter's attendance list. At the general elections in Bengkulu City so far, it was found that persons with disabilities had not had their rights fulfilled, namely in the treatment of acting and doing activities according to their conditions. In the field, their political rights were still neglected in elections, including:<sup>34</sup>

1. The right to be registered to vote

In its application in the field, the General Election Commission of Bengkulu Province found it hard to obtain data from the persons with disabilities group. This is because most of them moved a lot to work and did not live at the address listed on the National Identity Card. This made their right to vote unfulfilled.

2. The right of access to TPS

Access to voting stations did not make it easier for persons with disabilities because the TPS location was not too friendly for them. After all, the location was difficult for persons with

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<sup>34</sup> PBB.

disabilities to access, especially for persons with disabilities who used wheelchairs. The table for the voting booth which should had been made below the common table to allow voters in wheelchairs to reach the voting booth table freely was not made according to the rules.

3. The right to a confidential ballot

The fulfillment of the right to confidential voting at polling stations in Bengkulu City for several places had not been fulfilled to the fullest even though it had an election management committee and was assisted by volunteers with the ability to help voters with disabilities in casting their votes. They should be allowed to be accompanied and assisted by other people at personal request. However, the person appointed to assist voters with disabilities was obliged to keep the choices chosen by the elector concerned secret. However, this could not be guaranteed because of the absence of surveillance cameras to see the activities of voters and accompanying officers and the suitability of the election from voters and what assisting officers did in the voting booth could not be guaranteed.

4. Right to information including information about elections

The right to election information for people with disabilities had not been met optimally, especially for the deaf and blind people. Some deaf people did not hear it when their names were called for their turn to vote and thus they were considered non-existent. Furthermore, the list of candidates for legislative members was not disseminated according to the needs of persons with disabilities.

5. The right to join the election organizer

For this, it had been implemented even though it was not optimal. KPU had opened vacancies for volunteers at the voting stations for persons with disabilities. However, their number was insignificant.

As a developing country, the policies implemented in Indonesia serve more like an articulator and aggregator of interests, a source of information about public issues and political events. In this way, it can influence the process of formulating government policies in carrying out political socialization, political stabilization, development controllers, public services, and so on. This shows that in addition to its traditional role as a policy implementer, the bureaucracy also plays a political role.<sup>35</sup> Therefore, KPU has an important role in fulfilling the political rights of persons with disabilities and society in general.

## CONCLUSION

It was concluded that the political rights of persons with disabilities in general elections in Bengkulu City, such as the right to be registered to vote, the right to access TPS, the right to vote confidentially, the right to information, including information about general voting, and the right to join the general election organizers, after examining their fulfilment, was not optimally fulfilled. This was because the organizers, namely KPU, had not played their role optimally. Two main factors were behind this. The first one was external factors, i.e., the funds from the government. The second one was external factor, namely, the awareness of persons with disabilities about their political rights. For this reason, in the 2024 general election, KPU as the election organizer can

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<sup>35</sup> Pasolong Harbani, *Kepemimpinan Birokrasi* (Bandung: Alfabeta, 2013).

evaluate the performance of the previous year's general election. To fulfil the right to vote for persons with disabilities in general elections, KPU Bengkulu City must prepare human resources who understand the basic rights of the group. Providing special education and training to general election organizers in Bengkulu City is one of the steps that can be taken. Another step is for the government to provide funds that can support the needs of voters with special needs to allow the fulfilment of basic rights of people with disabilities such as the right to accessibility when voting for their needs can be fulfilled properly in the 2024 general election.

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