

## PROTECTION OF DISABILITY POLITICAL RIGHTS IN THE INDONESIAN ELECTORAL SYSTEM

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### Abstract

Persons with disabilities are citizens who have basic rights that must be fulfilled by the government. This paper aims to determine the fulfilment of political rights of persons with disabilities in the electoral system in Indonesia and the obstacles to the fulfilment of these rights and the Islamic view of the fulfilment of political rights of persons with disabilities. The author uses empirical normative research methods. The approach taken is the approach of legislation and field research. The results of the discussion: Factors inhibiting the fulfilment of political rights for persons with disabilities: First, the low level of education of persons with disabilities. Second, the lack of financial ability to enter politics. Third, the role of political parties (parpol) in conducting education and recruitment of political leadership for persons with disabilities is not optimal. It is recommended that the House of Representatives and the Government revise Article 173 of Law 7/2017 on Elections by adding the requirements for political parties to become Election Participants, one of which includes at least 2% (two per cent) representation of persons with disabilities in the membership of political parties at the central, provincial and district / city levels. In addition, it is recommended that political parties carry out their function as a means of political participation of citizens and political recruitment in the process of filling political positions to pay maximum attention to equality and justice for persons with disabilities. The Islamic view of the fulfilment of the political rights of persons with disabilities that are realised is not prohibited and is in accordance with the principles and rules of *fiqh siyasah*. Because in Islam there is no difference in position, culture, race, and social status of a person. Every human being must be sincerely accepted and treated equally without differentiating their background.

**Keywords:** Disability, Politics, Governance and Elections

### 1. Introduction

Based on the Big Indonesian Dictionary (KBBI), it explains that a person can be defined as an individual who suffers or bears a certain disease. Meanwhile, disability can be defined as a state or condition of an individual who is injured or sick which can limit his ability as a normal individual, both physically and mentally or the condition of not being able to carry out various things in a normal way as usual. People with disabilities can be classified as one of several vulnerable groups. Persons with disabilities or often also called 'difabel' is a new term, which is considered more humanist as a replacement for the old term 'cacat' or 'tuna'. The emergence of disability is actually due to the failure of the environment and society when responding to and treating people with physical or mental abilities that are different from people in general (Hakiki 2017).

In principle, every Indonesian citizen is entitled to the opportunity to live in a fair, decent, prosperous and prosperous manner as stipulated in Article 27 to Article 34 of the 1945 Constitution of the Republic of Indonesia which regulates the rights and obligations of every Indonesian citizen (Permatasari and Hermawan 2021). In the context of the rule of law, the constitution is a form of codification of the highest agreement between humans who have a common will (social contract) to be bound in a country. (Martitah, Rahmayani, and Naelufar 2024). The system of state administration but also regulates the authority and obligations of the government and provides a guarantee of protection of basic rights for Indonesian and foreign citizens (constitutional rights) as well as being the highest source of law in the applicable legal system (Arrsa et al. 2024). Democracy is placed as a mechanism that

provides a large role for the people to determine their political choices or representatives to occupy certain political (public) positions (Erlina 2023).

The constitution and the guarantee of human rights are a unity that reflects the continuity of the idea and practice of constitutional democracy (Hadji et al. 2024). In its development, the constitutional guarantee of human rights in Indonesia has experienced a dialectical process of thought that is very interesting to observe (Wahyudi and Masduki 2025). It is stipulated in the Constitution that everyone has the right to be free from discriminatory treatment on any basis and has the right to protection against discriminatory treatment (Sudiarta 2024).

It is stipulated that everyone has the right to receive facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice (Asshiddiqie 2021). The rights of Indonesians with disabilities are no exception. The electoral justice paradigm emphasises the enforcement of citizens' voting rights as constitutional rights (Siagian, Fajar, and Alify 2022). This enforcement aims to uphold and protect the right to vote, because the right to vote is part of human rights (Saprii, Susanto, and Aponno 2022).

Human rights are rights that are fundamental and inherent to universal human identity (Huda 2021). Human rights are a set of principles that arise from values which then become rules governing human behaviour in relations with fellow human beings (Basuki 2020). Rights that are sometimes a concern today, namely political rights for people with disabilities, are sometimes forgotten and considered to be a backward existence.

It is regulated in the Human Rights Law that every person with disabilities, elderly people, pregnant women, and children have the right to obtain convenience and special treatment. More specifically in Article 13 letter (a) of Law Number 8 Year 2016 on Persons with Disabilities, that political rights for Persons with Disabilities include the right to elect and be elected in public office; which means that both the general public and persons with disabilities have the same rights in government whose rights should not be cheated and considered unimportant.

Elections are General Elections, hereinafter referred to as Elections, are a means of popular sovereignty to elect members of the House of Representatives, members of the Regional Representatives Council, the President and Vice President, and to elect members of the Regional Representatives Council, which are carried out directly, publicly, freely, confidentially, honestly and fairly in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the Republic of Indonesia (Sulistiono and Boediningsih 2023).

Germany, the UK and Scandinavia have been some of the most active countries in terms of disability legislation since the mid-1990s, passing several laws and developing successive disability action plans for 'active citizenship' and independent living. These are also the countries where welfare state reform, labour markets and their management are high on the agenda and have resulted in a plethora of policies and experiments (Rahmatillah, Arnita, and Kurniasari 2025). They tend to produce quite a few expert reports for policy review purposes. While the rhetoric of reform and action is important, and if concrete steps are taken to improve conditions for citizens, there is no doubt that all this policy activism has also created new layers of regulation and bureaucracy, often under the guise of rationalisation (Siagian, Fajar, and Alify 2022). In the UK, welfare-to-work strategies have triggered frequent changes to disability benefits and rights (Tjandra 2023).

In simple terms, theory can be defined as ways of knowing or explaining things; the way we make sense of a phenomenon (Arief, Hermina, and Huda 2022). In DKI Jakarta, it is regulated in Article 10 that every person with a disability has equal opportunities, one of

which is in the political field. Article 38 more specifically regulates that political parties provide opportunities for persons with disabilities to participate as members of political parties in accordance with the Articles of Association (AD) and Bylaws (ART) of political parties.

The 2020 National Socio-Economic Survey (Susenas) shows that DKI Jakarta has 730,552 people with disabilities, which is 6.88 per cent of the total population of DKI Jakarta. Of the above figure, 35,388 are categorised as poor or 4.84 per cent of all persons with disabilities in DKI Jakarta. People with disabilities are the largest minority in the world. 82 per cent of people with disabilities live in poverty in some developing countries and often have limited access to health care, education and decent work (Ndaumanu 2020).

Produced in the context of the United States. S where civil rights can be the basis for the development of social rights, partly due to the weakness of other social guarantees and protections, this 'social model' of rights certainly strongly influences how we think about the 'rights' of people with disabilities (Sitorus 2023). In Indonesia, especially DKI Jakarta, is the city with the largest number of people with disabilities in Indonesia and this requires support in the form of activities and programmes related to the principle of disability equality (Apsari and Raharjo 2021).

Based on the DKI Jakarta Central Statistics Agency (BPS) in 2021, it shows that DKI Jakarta is the city with the largest number of people with disabilities in Indonesia with more than 7,000 people with disabilities. There are also many verses in the Qur'an that explain things related to people with disabilities. As in (Q.S. An-Nuur: 61)

The meaning of the above verse is to affirm social equality between persons with disabilities and those without disabilities (Nasir and Jayadi 2021). The social equality referred to here is that all individuals and groups have the same rights to vote and be elected (Sholeh et al. 2023), are equal in the eyes of the law, receive proper education, health insurance and other social security that equally involves all levels of society without discrimination (Mawarni, Hidayati, and Rokhim 2023).

However, in reality, many people still doubt the votes of people with disabilities because they are considered to open up opportunities for manipulation and are given directions to choose one particular candidate, because people with mental disabilities are considered dangerous and cannot think critically in choosing people's representatives in elections (Huda 2021). They also assume that people with disabilities should be shunned or excluded from the environment, and the National Human Rights Commission deeply regrets this assumption. This amounts to discrimination against the rights of people with mental disabilities. Where people with disabilities are often faced with limited access to various accesses, including rights in the political field, then support is needed in the form of a study of how the protection of political rights of persons with disabilities in the general election system and Islamic views on the fulfilment of political rights of persons with disabilities.

## 2. Method

This research uses an empirical normative method with a descriptive analysis approach that will reveal systematically the various findings in the research (Sumarna and Kadriah 2023). (Radianto 2023) states that in qualitative research the research process includes the development of questions and procedures, data collection is carried out in accordance with the conditions of the participants, data analysis is built inductively from specific to general themes, and researchers interpret the data. Primary data collection is done by in-depth interviews, while secondary data collection is collected from various sources such as books, journals and mass media. (Ananda, Sultan, and Karnay 2022). The data collection technique

in this research uses two data collection techniques, namely library studies and field research (Sugiyono 2020). The data in this research is sourced from primary data and secondary data. This research was conducted in order to obtain primary data is empirical data obtained in the field through in-depth interviews (Radianto 2023) (Indepht Interview) with key informants (key informants), literature study, documentation study (Moeloeng 2018).

### **3. Findings and Discussion**

#### **1. Protection of Disability Political Rights in the Electoral System**

Persons with disabilities, as defined in Article 1 number 1 of Law No. 8 of 2016 concerning Persons with Disabilities, face physical, mental, intellectual, and/or sensory limitations that significantly hinder their interaction with their environment and limit their participation in social, political, and economic activities. According to the law, there are four distinct categories of disabilities:

- a. Physical Disabilities: Impaired movement functions, such as paralysis, amputation, and illnesses like cerebral palsy or stroke.
- b. Intellectual Disabilities: Limited cognitive function, such as those associated with Down syndrome or intellectual disabilities.
- c. Mental Disabilities: Impaired emotions and behavior, which include conditions like anxiety, schizophrenia, and developmental disabilities like autism.
- d. Sensory Disabilities: Impairments in sensory functions such as vision, speech, or hearing.

Despite these limitations, the 1945 Constitution guarantees equal rights for all citizens, as enshrined in Articles 28(h) and 28(i), including persons with disabilities. They are entitled to special treatment and protection to ensure justice and equality, including the right to actively engage in political processes such as elections.

However, barriers remain that hinder the full political participation of persons with disabilities. Despite their significant numbers, they are often marginalized, especially in developing countries. In Indonesia, DKI Jakarta has the highest population of persons with disabilities, and there are ongoing efforts to ensure their political participation. Globally, countries like Canada have made strides in ensuring that persons with disabilities have equal access to political participation, while in some European countries, discrimination and negative stigma still hinder their involvement in elections (Ndaumanu, 2020; Mustika et al., 2022). This highlights the ongoing challenges faced by this group, underscoring the need for better electoral governance and societal awareness.

The State has a responsibility to ensure that persons with disabilities can actively participate in elections. This includes guaranteeing access to voter registration, polling stations, and voting procedures, as stipulated in the International Covenant on Civil and Political Rights (Sarbaini, 2020). Yet, it is evident that the political rights of persons with disabilities are still undermined by various factors, including low levels of education, financial barriers, inadequate political party recruitment, and limited awareness among election bodies.

The lack of representation of persons with disabilities in political parties and electoral processes perpetuates their exclusion. Political parties should be mandated to include at least a 2% representation of persons with disabilities to ensure their visibility and participation in the political arena. The KPU (General Elections Commission) must take proactive measures to facilitate the participation of voters with disabilities by providing adequate facilities and support, ensuring their access to elections without barriers.

## 2. Islamic Views on the Political Rights of Persons with Disabilities

In Islam, the concept of equality is foundational, and this extends to the political rights of persons with disabilities. The Qur'an, in multiple verses, acknowledges various forms of disability—such as blindness (a'ma), deafness (shummun), speech impairment (bukmun), and physical disabilities (a'raj)—and encourages the fair treatment of all individuals, regardless of their physical or mental limitations.

The Qur'an and Hadiths emphasize that all humans, regardless of their disabilities, are equal in the eyes of Allah and should be treated with respect and dignity. Political rights, including the right to vote and participate in governance, are no exception. Islamic law does not distinguish between people with disabilities and non-disabled individuals. For example, the Qur'an's teachings in Surah Al-Baqarah (2:30) affirm that all humans are equal stewards of the earth, with equal rights to govern and contribute to society.

Islamic jurisprudence further supports the participation of persons with disabilities in the political process. In terms of *fiqh siyasah* (political jurisprudence), Islam encourages fair governance and emphasizes that political participation is a fundamental right for every citizen, including persons with disabilities. Discrimination against persons with disabilities is seen as contrary to Islamic principles of justice, equality, and human dignity (Sisilya et al., 2024).

Islamic law aligns with the provisions in Law No. 8 of 2016, recognizing the political rights of persons with disabilities and providing a foundation for policies that guarantee their inclusion in democratic processes. This reinforces the concept that in Islam, all individuals have equal opportunities to lead and contribute to their community, regardless of their physical condition.

## 4. Conclusion

The political rights of persons with disabilities remain a critical yet often overlooked issue in many societies. In Indonesia, despite the guarantees provided by Law No. 8 of 2016 concerning Persons with Disabilities, significant barriers still prevent full participation of persons with disabilities in the political process. These barriers include limited representation in political parties, financial constraints, inadequate education and training opportunities, and a lack of proactive support from electoral bodies such as the General Elections Commission (KPU). Consequently, many persons with disabilities continue to be excluded from fully exercising their right to vote, run for office, and engage in political discourse, which undermines the essence of democracy.

Islamic teachings further reinforce the concept of equality and justice, offering a perspective that aligns with the notion of inclusive citizenship. The Qur'an upholds that all individuals, regardless of their physical or mental conditions, have equal rights and duties, especially in participating in governance. The principles of justice and respect for human dignity, as laid out in Islamic law, resonate with the political rights of persons with disabilities, ensuring that they too should have the right to be involved in the political process. These teachings are not only reflected in Islamic jurisprudence but also support the inclusive provisions in Indonesian law regarding persons with disabilities.

To address the challenges faced by persons with disabilities in Indonesia's political system, several steps must be taken. First, the Election Law should be amended to require political parties to include at least 2% representation of persons with disabilities, which will ensure they have a platform to express their political aspirations. Second, political parties must invest more in leadership development and recruitment programs targeted at persons with disabilities to promote their participation in decision-making roles. Finally, electoral bodies like the KPU should be more proactive in ensuring that persons with disabilities have



full access to the voting process, from accessible polling stations to appropriate voting methods and support during campaigns.

Incorporating these measures will not only fulfill Indonesia's legal and ethical obligations but will also serve as a step towards a more inclusive democracy. By providing equal opportunities for persons with disabilities to engage in the political process, Indonesia can demonstrate a commitment to fairness, justice, and respect for human dignity. This is not only a legal responsibility but a moral imperative to ensure that all citizens, regardless of their abilities, have the right to participate in shaping the future of their country.

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