

# Optimization Of Protection Political Rights Disabled Persons As Fulfilment Of Legal Certainty In The Perspective Of Equality Before The Law

## *Optimasi Perlindungan Hak Politik Penyandang Disabilitas Sebagai Pemenuhan Kepastian Hukum Dalam Perspektif Equality Before The Law*

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## Abstract

This article will discuss how the protection of political rights for people with disabilities is a fulfillment of the principle of consistency and certainty of election law that has been running so far. The research was conducted using a normative legal method through a statute approach. The writing of this article also takes the perspective of the principle of equality before the law or equality of standing in the eyes of the law. Basically, the democratic party, which is usually referred to as an election, is a means of realizing the sovereignty of the people, likewise with the political rights of its citizens, which are applied universally.



Therefore, it should be noted that people with disabilities also have the same political rights as other citizens. However, in practice, there is still a lot of discrimination against people with disabilities in exercising their political rights in elections. Discrimination against people with disabilities reflects the inconsistency and uncertainty of the law in elections. Therefore, this article aims to assess, explain, and describe how to optimize the protection of political rights for people with disabilities as a fulfillment of the principle of consistency and certainty of election law from the perspective of equality before the law.

**KEYWORDS** *rule of law and democracy, general elections, people with disabilities, equality before the law*

Artikel ini akan mendiskusikan bagaimana perlindungan hak politik bagi penyandang disabilitas sebagai pemenuhan prinsip kepastian hukum pemilu yang telah berjalan selama ini. Penelitian dilakukan menggunakan metode hukum normatif melalui pendekatan statute approach. Penulisan artikel ini juga mengambil sudut pandang dari asas equality before the law atau kesetaraan kedudukan dimata hukum. Pada dasarnya pesta demokrasi yang biasa disebut sebagai pemilu merupakan sarana perwujudan kedaulatan rakyat. Begitu juga dengan hak berpolitik warga negaranya yang diterapkan secara universal. Maka dari itu, perlu diketahui bahwa penyandang disabilitas juga memiliki hak-hak berpolitik yang sama dengan warga negara lainnya. Namun, pada praktiknya masih banyak terjadi diskriminasi akan penyandang disabilitas untuk menggunakan hak berpolitik dalam pemilu. Diskriminasi terhadap penyandang disabilitas mencerminkan ketidakpastian hukum pada pemilu. Maka dari itu artikel ini bertujuan untuk menilai, menjelaskan, dan memaparkan bagaimana optimasi perlindungan hak politik bagi penyandang disabilitas sebagai pemenuhan prinsip kepastian hukum pemilu dalam perspektif equality before the law.

**KATA KUNCI** *negara hukum dan demokrasi, pemilihan umum,*

*penyandang disabilitas, equality before the law*

## Introduction

The political concept adopted by Indonesia is a democratic state. Where the emphasis of the concept of a democratic state is the sovereignty of the people as the highest power holder, this is realized, one of which is the existence of general elections, which later in this article will be referred to as elections, which are consistently held every 5 years as a legitimization of government power through the fulfillment of citizens' political rights. In line with Veri Junaidi's statement that democracy and elections are "qonditio sine qua non", one can not exist without the other<sup>1</sup>. It means that elections are a procedure for achieving democracy. It is also a mechanism for transferring political power through popular sovereignty to the desired representatives of the people.

Article 28D of the 1945 Constitution of the Republic of Indonesia stipulates the right of every citizen to recognition, guarantees, protection, and legal certainty, as well as equal treatment before the law. Therefore, the government has the main task of ensuring that there is no discrimination in the eyes of the law, the government, or the community itself. Human rights and democracy are two sides of a coin that complement and strengthen each other<sup>2</sup>. Elections exist as a form of democracy and a political arena for the community.

People have universal voting rights in elections to facilitate citizens' political rights, as stipulated in Law No. 39 of 1999 concerning Human Rights, which stipulates the right of citizens to be elected and vote in elections based on equal rights through direct, general, free, secret, honest and fair voting in accordance with the provisions of the law. People with disabilities are no exception.

The term "persons with disabilities" is a translation of the word *diffable* (people with different abilities), which implies that

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<sup>1</sup> Silalahi, *Sistem Pemilihan Umum Di Indonesia*.

<sup>2</sup> Pranata, Widiati, and Suryani, "Pemenuhan Hak Politik Penyandang Disabilitas Dalam Pemilu."

the individual has different abilities, not deficiencies. This term provides a more positive and inclusive perspective compared to the term disabled, which is commonly used in Western countries and literally means "unable"<sup>3</sup>.

The use of the term "persons with disabilities" is also intended to replace the old term "disabled", which has often been negatively stigmatized. The term "handicapped" seems to describe someone as damaged or imperfect. Meanwhile, "persons with disabilities" emphasizes that they are individuals who have rights, potential, and important roles in society, despite having differences in the functioning of their bodies or minds. With this change in terms, it is hoped that a more just perspective will be created and that human diversity will be respected because God created humans to be unique and different with all their strengths and weaknesses<sup>4</sup>.

People with disabilities often have a very weak position and are at a disadvantage in society. This condition causes them to face various obstacles that hinder active participation and contribution in various social activities in the neighborhood. The limitations they experience, whether physical, mental, intellectual, or sensory, are the main obstacles that limit their ability to interact and play a full role in social life. Therefore, society needs to create an inclusive and supportive environment so that people with disabilities can obtain equal opportunities and be able to contribute optimally<sup>5</sup>.

Discrimination against people with disabilities should be eliminated from every part of life. This is in line with the passing of the Law on Persons with Disabilities in 2016. The introduction of the term "persons with disabilities" in Law No. 8/2016 proves the government's effort to eliminate discrimination against persons with disabilities<sup>6</sup>.

The type of disability referred to in this article is Persons

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<sup>3</sup> Dwintari, "Aksesibilitas Penyandang Disabilitas Dalam Pemilihan Umum Di Indonesia."

<sup>4</sup> Riyanti and Apsari, "Gambaran Aktualisasi Diri Penyandang Disabilitas Fisik Yang Bekerja."

<sup>5</sup> Allo, "Penyandang Disabilitas Di Indonesia."

<sup>6</sup> Rajabi and Trustisari, "Akses Penyandang Disabilitas Tunanetra Di Dunia Kerja Dalam Perspektif Hak Asasi Manusia."

with Disabilities, who are persons with physical disabilities, persons with intellectual disabilities, persons with mental disabilities, and/or persons with sensory disabilities, as stated in Article 4 of Law No. 8 of 2016, some definitions of which include

1. Physical Disabilities

This refers to individuals who experience impairments in motor functions, which may result from amputation, flaccid or spastic paralysis, paraplegia, cerebral palsy (CP), stroke, leprosy, or dwarfism<sup>7</sup>.

2. Intellectual Disabilities

Intellectual disabilities refer to individuals who encounter cognitive impairments due to below-average intelligence levels. This condition affects their capacity to understand information, learn, and complete tasks requiring logical reasoning. It includes various conditions such as learning difficulties, intellectual developmental disorders, and Down syndrome<sup>8</sup>. Despite their intellectual limitations, these individuals have the potential to grow and contribute meaningfully to society when provided with adequate support, education, and access to appropriate services. An inclusive and empathetic approach is essential in helping them live independent, meaningful, and productive lives.

3. Mental Disabilities

Mental disabilities refer to individuals with mental health issues (ODMK) and those with severe mental disorders (ODGJ). These individuals face challenges in social interaction and in playing active roles in community life<sup>9</sup>.

4. Sensory Disabilities

Sensory disabilities are characterized by impairments in the sensory organs—particularly vision, hearing, and speech—which affect one's ability to receive and respond

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<sup>7</sup> Damanik and Andriyani, "Analisis Perlindungan Hak Pekerjaan Penyandang Disabilitas Dalam Perpres Nomor 60 Tahun 2023."

<sup>8</sup> Arifin, "Realita Pendidikan Inklusif Di Era Demokrasi: Tantangan Dan Peluang Bagi Penyandang Disabilitas."

<sup>9</sup> Badra and Sukranatha, "Problematika Penyandang Disabilitas Mental Dalam Perspektif Hak Asasi Manusia."

to environmental information. Such impairments may result from genetic factors, accidents, injuries, serious illness, or aging. Sensory disabilities are commonly categorized into two major types: visual impairments (total or partial blindness) and hearing impairments (partial or total deafness). These conditions may impede communication and social participation, making it necessary to provide assistive devices, accessible services, and inclusive environments to help individuals with sensory disabilities lead independent and meaningful lives<sup>10</sup>.

Likewise, persons with disabilities are guaranteed political rights as stipulated in Law No. 8 of 2016 on Persons with Disabilities. Article 13 outlines political rights, including:

- a) The right to vote and be elected to public office;
- b) The right to express political aspirations both verbally and in writing;
- c) The right to choose political parties and/or individual candidates participating in elections.

In practice, however, many persons with disabilities face discriminatory practices during elections, which undermine their ability to exercise political rights. This contradicts Article 28I(2) of the 1945 Constitution, which guarantees every citizen the right to be free from and protected against discriminatory treatment under the law. Furthermore, Law No. 7 of 2017 on General Elections, particularly Article 5, affirms the right of eligible persons with disabilities to participate as voters actively, candidates for the House of Representatives (DPR), the Regional Representative Council (DPD), as presidential or vice-presidential candidates, as members of regional legislatures (DPRD), and as election organizers. The state is thereby obliged to ensure legal certainty in electoral participation for persons with disabilities.

Nevertheless, the active involvement of persons with disabilities remains minimal, and they often experience systemic discrimination from electoral bodies. The General Elections Commission (KPU) has been criticized for its

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<sup>10</sup> Nugroho, "Buku Edukasi Pengasuhan Anak Dengan Disabilitas."



insufficient performance in realizing the political rights of persons with disabilities. As highlighted by Happy Sembahyang, Deputy Chairperson of PPUA Penca, electoral information remains largely inaccessible to persons with disabilities. For instance, assistive tools for visually impaired voters are often unavailable at polling stations, revealing the lack of governmental attention to the rights of persons with disabilities.

Political rights are also neglected during the pre-election phase. Researchers Martini and Yulyana observe that pre-election outreach has failed to reach all individuals with disabilities. For example, in East Karawang Subdistrict, only 21 out of 51 registered voters with disabilities participated in the socialization event<sup>11</sup>. This is alarming considering that, according to the 2019 National Socioeconomic Survey (Susenas), persons with disabilities constitute 9.7% of Indonesia's population, or approximately 26 million people<sup>12</sup>. Additionally, the KPU recorded 1,247,730 persons with disabilities as registered voters<sup>13</sup>.

For the 2024 general elections, the KPU recorded 1,101,178 persons with disabilities in the Final Voters List (DPT), representing approximately 0.54% of the total electorate. Of these, 482,414 individuals have physical disabilities, and 298,749 have sensory disabilities, such as visual and speech impairments<sup>14</sup>.

These facts underscore the urgent need for the state and electoral organizers to ensure equal and fair access for all citizens in exercising their voting rights. This includes the availability of disability-friendly infrastructure, accessible and easily understood information, and adequately trained personnel to assist voters with special needs. Beyond administrative compliance, recognizing the political rights of persons with disabilities embodies the principles of equality,

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<sup>11</sup> Viera Mayasari Sri Rengganis et al., "Problematika Partisipasi Pemilih Penyandang Disabilitas Dalam Pemilihan Serentak Lanjutan 2020."

<sup>12</sup> Tempo.co, "Hak Aksesibilitas Kesehatan Untuk Penyandang Disabilitas."

<sup>13</sup> Nasional, "KPU Sebut Pemilih Penyandang Disabilitas Capai 1,2 Juta Orang."

<sup>14</sup> Sulastri, "Upaya Peningkatan Hak Pilih Penyandang Disabilitas Dalam Pelaksanaan Pemilu Serentak Tahun 2024."

participation, and social justice.

It is crucial to understand that people with disabilities are an inseparable part of society. Their participation in elections is a measure of how well the principle of equality before the law is upheld<sup>15</sup>. Their political engagement is vital in a democratic nation and reflects the state's commitment to human rights values. Too often, persons with disabilities are deemed unimportant due to perceived physical or mental "deficiencies," resulting in the marginalization of their abilities and integrity in participating fully in elections.

Considering the specific needs of persons with disabilities, the rapid development of technology should be utilized to facilitate communication and accessibility. Various innovations now support this goal, such as Braille-based reading tools that help visually impaired individuals interact with their environment. Additionally, campaign materials such as legislative candidate profiles are increasingly presented with sign language interpretation or subtitles to support comprehension for those with hearing or speech impairments<sup>16</sup>. Technology also opens the door to inclusive solutions that empower persons with other forms of disabilities to participate more fully in social life, education, and employment.

Despite various efforts to enhance accessibility and the participation of persons with disabilities in the electoral process, significant barriers persist. These obstacles are not merely logistical, but also stem from deeply embedded structural, cultural, and institutional issues that hinder full political participation. In many cases, polling stations (PSUs) remain inadequate in their accessibility provisions, lacking fundamental infrastructure such as ramps, dedicated spaces for wheelchair users, and essential support for individuals with visual impairments. More than just physical barriers, procedural obstacles also remain commonplace; for instance, voting materials are often not available in formats accessible to all types of disabilities, and election officials may not be

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<sup>15</sup> Ihsan and Kharima, "Analisis Arah Kebijakan Pemenuhan Hak Politik Pemilih Disabilitas Mental Pada Pemilu Tahun 2024."

<sup>16</sup> Rahmatullah, "Tindakan Afirmatif Terhadap Penyandang Disabilitas Dalam Hak Politik."



adequately trained to assist voters with special needs in a manner that respects the confidentiality and integrity of the voting process. These systemic deficiencies highlight the stark gap between policy intentions and the lived reality of disabled citizens during elections.

Moreover, there is a pressing issue related to the absence of accurate and comprehensive data regarding the number, distribution, and specific types of disabilities among eligible voters in Indonesia. The lack of detailed data significantly impedes the ability of the state and electoral authorities to design and implement effective policies that address the unique needs of persons with disabilities. Without such data, the government faces a considerable challenge in providing targeted resources, such as tailored voting materials and appropriately designed polling stations. Furthermore, the absence of systematic mechanisms for monitoring and evaluating the accessibility of the electoral process for persons with disabilities adds another layer of complexity. This lack of oversight not only undermines efforts to ensure inclusive participation but also prevents the identification of gaps in the existing framework, thereby perpetuating a cycle of exclusion and marginalization.

In the context of international law, Indonesia's obligations regarding the political rights of persons with disabilities are clearly outlined in the Convention on the Rights of Persons with Disabilities (CRPD), to which Indonesia acceded via Law No. 19 of 2011. Specifically, Article 29 of the CRPD mandates that state parties ensure that persons with disabilities enjoy their right to vote and stand for election on an equal basis with others, in elections that are free, fair, secret, and conducted without undue influence or coercion. The provisions of this international treaty are not mere guidelines; they represent binding legal commitments that the Indonesian government has undertaken. As such, the failure to guarantee the political rights of persons with disabilities is not only a breach of democratic principles but also a violation of international law. It is essential to recognize that Indonesia's obligations under the CRPD go beyond rhetoric, carrying with them concrete, enforceable legal responsibilities.

The neglect of these obligations in practice signals a deeper issue within the electoral system. While there have been incremental improvements, these advances are insufficient in light of the country's international commitments. As such, it is crucial to shift the focus from a top-down approach to a more participatory and inclusive model in which persons with disabilities themselves are directly involved in shaping electoral processes. This approach would include their input in formulating electoral policies, designing accessible voting stations, and developing voting materials that cater to the needs of all individuals, regardless of disability type. It would also ensure that election officials receive comprehensive training in handling the specific challenges that disabled voters may face. Engaging persons with disabilities in the policy-making process not only ensures that their needs are met but also affirms their status as equal citizens with full political rights.

Incorporating persons with disabilities into the decision-making processes surrounding elections is not just a matter of practical necessity, but also a moral and legal imperative. International human rights frameworks, including the CRPD, call for the recognition of the autonomy, dignity, and equality of persons with disabilities in all aspects of life, including political participation. Their involvement in the electoral process serves as a reflection of the commitment to these principles, signaling that they are not merely passive recipients of policies but active contributors to society. By fostering an inclusive political environment, Indonesia would demonstrate its respect for the right to participate in public affairs and to vote, ensuring that democracy is genuinely representative and all-encompassing.

A truly inclusive democracy requires more than just legal reforms. It demands a change in societal attitudes toward persons with disabilities, recognizing them as equal members of society with full rights and responsibilities. This shift should be reflected in the policies and practices of electoral authorities, which should work to eliminate any form of discrimination and ensure that persons with disabilities can access the same opportunities as other citizens. Moreover, the development of supportive technologies—such as Braille ballots, accessible

voting platforms, and sign language interpreters—should be seen as integral components of a modern electoral system that respects and upholds the rights of all citizens.

Given the significant number of persons with disabilities, the government must urgently address the pervasive discrimination they face. Special facilities and accommodations should be provided as a form of protection for their political rights. Taking the perspective of equality before the law, this study focuses on ensuring equal opportunities for persons with disabilities to exercise and receive protection for their political rights, thereby supporting an inclusive electoral process. Elections, after all, are a channel through which citizens express their political will and choose representatives in government.

Based on this reality, the researcher formulates the following issues for discussion:

(1) What forms of political rights protection for persons with disabilities represent the fulfillment of legal certainty in elections under statutory provisions? (2) How can the protection of political rights for persons with disabilities be optimized in light of the principle of legal certainty in elections from the perspective of equality before the law?

## Method

The research method employed in this article is normative juridical. This study focuses on library research by examining literature materials, including both written and electronic documents, and relying solely on secondary data. The approach used is the statute approach, which refers to the analysis of legislation. This article specifically involves Law No. 8 of 2016, Article 13, concerning the political rights of persons with disabilities, which is linked to Law No. 7 of 2017 as a basis for fulfilling the principle of legal certainty in elections. The study is conducted from the perspective of the principle of equality before the law as stipulated in Article 27, paragraph (1) of the 1945 Constitution, in discussing the optimization of the protection of political rights for persons with disabilities as part of realizing legal certainty in elections.

## Result & Discussion

### A. Forms of Political Rights Protection for Persons With Disabilities as a Fulfillment of The Principle of Legal Certainty in Elections Based on Legislative Provisions

To understand the political rights of persons with disabilities, it is essential first to understand the concept of disability itself. According to Article 1 point 1 of Law No. 8 of 2016 concerning Persons with Disabilities, a person with a disability is defined as an individual who has physical, intellectual, mental, and/or sensory limitations over a long period, which in interaction with the environment may hinder their full and effective participation in society on an equal basis with others.

Before addressing the primary issue, we must identify the common obstacles that persons with disabilities face when exercising their political rights. These barriers include challenges in physical access, administrative procedures, information availability, and social stigma<sup>17</sup>. Addressing these challenges should be a key responsibility of the government.

First, physical access: individuals with physical or sensory disabilities often face difficulties due to polling stations (TPS) not being disability-friendly, for example, steep stairways and the lack of adequate facilities to support their mobility.

Second, administrative access: Persons with disabilities often encounter challenges in the voter registration and election systems, which are frequently not designed to accommodate them. As a result, many are unregistered and excluded from official electoral lists.

Third, information access: persons with disabilities often lack access to adequate information about elections, such as voting procedures, candidate details, or tools like Braille ballots or sign language interpreters. This is particularly true in rural

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<sup>17</sup> Putri and Kristanto, "Hak Konstitusional Penyandang Disabilitas Dalam Pemilu Di Kalimantan Tengah."

areas, where access to inclusive media and technology remains limited.

Fourth, social stigma: beyond elections, persons with disabilities are often subject to societal discrimination. They are frequently perceived as incapable or unworthy of participating in politics, including running as candidates<sup>18</sup>. Therefore, collaboration between the government and society is essential to advocate for and protect the political rights of persons with disabilities. The government must improve systems and shift societal paradigms about disability.

As a democratic nation, Indonesia is obliged to uphold the constitutional rights of all its citizens, as enshrined in the 1945 Constitution<sup>19</sup>. This protection—whether stated explicitly or implicitly—must be respected by all branches of government. An effective legal mechanism must be in place to defend and enforce these rights when violated. One key mechanism is the constitutional review by the Constitutional Court, which safeguards human rights and upholds the supremacy of the Constitution.

Elections serve as a mechanism for citizens to delegate political authority to their representatives. However, challenges persist, such as the controversial presidential threshold and the lack of accommodations for disabled voters. The right to vote is a universal, non-derogable right, meaning no one should be denied this right on any discriminatory basis<sup>20</sup>.

People with disabilities demonstrate strong enthusiasm for participating in elections. A survey showed that 77% of disabled respondents had a solid understanding of political developments and were aware of their rights. Additionally, 95.5% stated that voting was an essential step in fighting for their interests and future<sup>21</sup>. This indicates that they are not

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<sup>18</sup> Sari, Novaria, and Soesiantoro, "Pelaksanaan Pemilu Tahun 2024 Bagi Penyandang Disabilitas Di Kabupaten Nganjuk."

<sup>19</sup> Don, "Hak Memilih Bagi Penyandang Disabilitas Mental Dalam Pemilihan Umum Di Kota Surabaya."

<sup>20</sup> Razak, "Affirmative Action Untuk Penyandang Disabilitas: Memenuhi Hak Pilih Dalam Pemilu Yang Adil."

<sup>21</sup> Kompas.id, "Banyak Penyandang Disabilitas Belum Terdaftar Sebagai Pemilih Difabel."

merely passive participants but active agents seeking to shape national policies.

Law No. 8 of 2016, Article 4, paragraph (1) categorizes disabilities into physical, intellectual, mental, and sensory types. These limitations do not diminish the political rights of persons with disabilities. Article 13 affirms that they have the right to vote and be elected to public office, to express political aspirations both verbally and in writing, and to choose political parties or candidates in elections.

Law No. 8 of 2016 also acknowledges that many persons with disabilities face vulnerable, underdeveloped, and/or impoverished conditions due to ongoing discrimination, manifested through restrictions, obstacles, difficulties, and even denial of rights. This legal basis is reinforced by Law No. 7 of 2017, Article 5, which confirms that eligible persons with disabilities have equal opportunities to vote, run for DPR, DPD, president or vice president, DPRD, and to serve as election organizers.

Elections held every five years require consistency. According to the Indonesian dictionary (KBBI), consistency implies steadiness and determination in action. Achieving such consistency demands a strong commitment. In the context of political rights, continual protection and improvement for persons with disabilities reflect electoral consistency and inclusivity.

Legally, the principle of certainty means fixed, necessary, and definite. Fence M. Wantu argues that law without legal certainty loses its value as it ceases to function as a behavioral guideline<sup>22</sup>. Similarly, Radbruch defines legal certainty as a condition where the law acts as a rule that must be obeyed. Thus, legal certainty guarantees that what is written and regulated must be implemented accordingly.

If the political rights of persons with disabilities are effectively enforced, it will reflect legal certainty in elections. Elections must ensure that the rights and legal provisions regarding persons with disabilities are neither ignored nor misapplied. Unfortunately, despite strong regulations,

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<sup>22</sup> Wantu, "Antinomi Dalam Penegakan Hukum Oleh Hakim."



implementation in the field remains inadequate. The government continues to overlook the special needs of persons with disabilities, reflecting a lack of legal certainty in practice.

The legal protection of the political rights of persons with disabilities must be situated within the broader discourse of international human rights law, where such protection is not merely aspirational but constitutes binding legal obligations for state parties. Indonesia, as a signatory to the Convention on the Rights of Persons with Disabilities (CRPD)—ratified through Law No. 19 of 2011—is under a clear normative mandate to ensure full and equal political participation for individuals with disabilities.

Article 29 of the CRPD unequivocally stipulates that state parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, including the rights to vote, be elected, and participate in public affairs. This obligation requires the State not only to refrain from discriminatory practices but also to adopt proactive legislative, administrative, and practical measures to eliminate barriers to participation.

Thus, legal certainty (*kepastian hukum*) in the electoral context must be understood as a dual construct: the existence of a normative framework that recognizes rights, and the effective implementation of that framework through accessible and enforceable mechanisms. In this regard, ratified international instruments must be internalized into domestic law and made operational through coherent policies and accountable institutions.

In the realm of electoral governance, inclusive practices must be integrated as a standard rather than an exception. The obligation to provide reasonable accommodation, as articulated in Article 2 of the CRPD, necessitates that electoral procedures, facilities, and materials are accessible to persons with disabilities.

The General Elections Commission (Komisi Pemilihan Umum/KPU) is therefore under a positive duty to ensure that such accommodations are not only available but systematically embedded within the electoral process. These include, *inter alia*, the provision of braille ballots, sign language interpretation

during campaign events, audio-visual voter information, and the training of polling officers to adequately assist voters with disabilities in a manner that respects their autonomy and dignity.

Failure to provide such accommodations may constitute indirect discrimination under international human rights law, undermining the principle of equality before the law and the right to political participation. Moreover, the implementation of inclusive electoral practices serves as a concrete manifestation of legal certainty. It ensures that the statutory rights enshrined in Law No. 8 of 2016 and Law No. 7 of 2017 are not only declarative but also executable and justiciable.

Therefore, the integration of universal design and individualized support within electoral mechanisms is indispensable to the realization of substantive equality in democratic processes.

Ensuring the political participation of persons with disabilities in a meaningful and sustained manner further requires a multi-stakeholder, inter-institutional approach. The protection of these rights must not rely solely on the goodwill of electoral bodies, but should instead be anchored in robust institutional accountability frameworks.

Collaboration among state organs—such as the Ministry of Law and Human Rights, KPU, and Bawaslu—alongside civil society organizations and representative associations of persons with disabilities, is essential in fostering an inclusive democratic culture. The establishment of independent monitoring bodies, alongside the availability of effective legal remedies, is crucial to ensure compliance and redress in cases of exclusion or discrimination.

This includes the right to access administrative complaint procedures, judicial review, and constitutional litigation, where necessary, to protect and enforce political rights. The normative commitment to legal certainty in the electoral context must be substantiated through empirical mechanisms of enforcement, oversight, and periodic evaluation.

Without these, the promise of inclusion risks remaining rhetorical. It is only through the symbiotic interplay of legal norms, institutional practices, and civic engagement that the

political agency of persons with disabilities can be fully actualized in accordance with international legal standards.

## B. Optimization of Political Rights Protection for Persons with Disabilities as a Fulfillment of the Principle of Legal Certainty in Elections from the Perspective of Equality Before the Law

The fulfillment of political rights for persons with disabilities remains a polemic issue that has yet to receive adequate attention from the government. Various limitations are still faced by persons with disabilities, including limited access to information, lack of knowledge, unequal systems that fail to reach all disabled individuals, and persistent societal stigma that continues to underestimate their capabilities.

As previously discussed in this article, persons with disabilities have the right to vote and to be elected to public office. Elections are also expected to serve as a channel for expressing political aspirations, both in written and oral form. However, the reality of election implementation reveals that many of these rights remain neglected, falling short of the principle of legal certainty. For instance, polling stations (TPS) in rural areas remain inaccessible, participation of disabled individuals in legislative bodies is still minimal, and their involvement as election officials continues to be stigmatized due to societal assumptions that persons with disabilities are burdensome.

The National Human Rights Commission (Komnas HAM) has raised concerns that the fulfillment of political rights for persons with disabilities is still far from optimal. According to a 2014 monitoring report by the Voter Education Network for the People (JPPR), only 36.9% of election officials (KPPS) offered assistance to persons with disabilities, and just 42.86% allowed them to exercise their voting rights freely. Additionally, only 30.95% of companions assisting blind voters signed Form C3 to pledge confidentiality regarding the voter's choice. A similar

figure—30.95%—was recorded for KPPS officials who informed blind voters of the availability and use of assistive voting tools. The Center for Accessible Elections also reported that many polling stations lacked facilities for blind voters, including no Braille templates in places such as Tangerang and Pangkal Pinang during the 2012 regional elections.

With respect to public office candidacy, the Center for Accessible Elections recorded at least 55 candidates with disabilities during the 2019 election, but only 35 were officially registered<sup>23</sup>. This suggests that political attention to disabled candidates remains minimal and does not reflect the equality mandated in Law No. 7 of 2017 on Elections. The lack of awareness among social institutions and the General Elections Commission (KPU) is further evidenced by data from the Indonesian Mental Health Association, which revealed that 300 persons with disabilities were not registered in the 2017 Jakarta elections—200 in Bekasi and 400 in Sukabumi. The primary reason was a lack of awareness among election bodies and social institutions that persons with disabilities hold the same voting rights, coupled with uneven e-ID card (e-KTP) distribution.

The inadequacy of the KPU's efforts is also reflected in findings from the 2019 legislative and presidential election monitoring team. Komnas HAM found that the KPU's outreach to persons with disabilities was suboptimal. In five provinces—South Sulawesi, Central Kalimantan, East Java, West Java, and Banten—many disability communities received no direct election-related socialization. Furthermore, criticism was directed at the 2019 election organizers, including the Election Supervisory Agency (Bawaslu), which recorded 2,366 polling stations that did not accommodate the needs of persons with disabilities, such as the presence of stairs and the absence of Braille tools. Meanwhile, 20,834 other polling stations lacked letter-based tools for blind voters, even though the KPU recorded 166,264 blind voters in that election. These barriers represent one of the key obstacles to realizing the political rights of persons with disabilities, particularly their voting rights.

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<sup>23</sup> Nurbeti and Chandra SY, "Pemenuhan Hak Pilih Bagi Disabilitas Dalam Pemilu Oleh KPU Di Sumatera Barat."

Such persistent obstacles and the government's lack of practical action in protecting the political rights of persons with disabilities raise serious questions about legal certainty in elections. Although the overall voter turnout reached 76.09% across 9 provinces, 224 regencies, and 37 cities in the 2020 elections, participation by persons with disabilities remained low. Data from the Association for Elections and Democracy (Perludem) showed participation of only 64.625% among voters with disabilities<sup>24</sup>. These issues should have prompted the government to take affirmative action and optimize the implementation of regulations already stipulated by law. Referring to Article 27(1) of the 1945 Constitution, every citizen is equal before the law and government, and must uphold the law without exception<sup>25</sup>.

The 2019 general election was not seriously used by the government as a basis for improvement. Instead, there is concern that the 2024 elections may repeat the same mistakes. According to Ranie Ayu Hapsari of the Yakkum Rehabilitation Center, monitoring shows that election organizers continue to neglect the rights of persons with disabilities. The democratic celebration that is meant to be inclusive has not yet been fully experienced by this community<sup>26</sup>.

This is evident from monitoring reports of 1,571 polling stations observed by 2,082 accredited monitors from the Election Supervisory Agency. These monitors were spread across 156 districts/cities in 26 provinces. Findings revealed that 262 out of 1,571 TPS (17%) were not disability-friendly. Election Monitoring Coordinator Farid Fathur confirmed that 290 TPS lacked assistive tools for blind voters during the presidential election, and 430 lacked such tools for the legislative (DPD) election<sup>27</sup>. These surveys did not even cover polling stations in remote villages with poor road access.

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<sup>24</sup> Viera Mayasari Sri Rengganis et al., "Problematika Partisipasi Pemilih Penyandang Disabilitas Dalam Pemilihan Serentak Lanjutan 2020."

<sup>25</sup> Aurellia, "Makna Asas Equality Before The Law Dan Contohnya."

<sup>26</sup> Nilawaty, "Pemilu 2024, Banyak Difabel Tak Dapat Mengakses TPS Dan Kertas Suara Dibatasi."

<sup>27</sup> Mulya, "Pemantau Pemilu Sebut 17 Persen TPS Kurang Ramah Disabilitas."

It is the state's obligation to uphold equality for persons with disabilities as a core element of legal certainty. Persons with disabilities must be guaranteed the same political rights as other citizens. Elections must be transformed into a medium for realizing legal certainty and the protection of political rights, especially for this group.

As is widely acknowledged, the principle of equality remains a central theme in legal discourse, often championed by minority rights activists. A prime example is the reduction of discrimination against women's political representation through concrete government actions, such as the provision in Law No. 7 of 2017, Article 173(3)(e), which mandates at least 30% female representation in national-level political parties.

Following the success of the principle of equality before the law in expanding political space for women, the government is expected to broaden political opportunities for persons with disabilities. Article 5 of Law No. 7 of 2017 affirms that eligible persons with disabilities are entitled to the same opportunities as voters, legislative candidates, presidential/vice-presidential candidates, and even as members of the election commission. This provision should serve as a gateway for increased political participation and the expression of their aspirations.

Article 28D(1) of the 1945 Constitution also affirms that every person has the right to recognition, guarantees, protection, and legal certainty as well as equal treatment before the law. Article 28I(2) explicitly prohibits any form of discrimination. These constitutional provisions form the basis for addressing these ongoing issues. However, from the perspective of equality before the law, the government has not adequately optimized the protection of political rights for persons with disabilities. To address this, several strategies can be pursued:

1. Socialization Phase

Stacey argues that socialization is the process through which individuals acquire abilities, beliefs, and values that shape their behavior. Political socialization helps foster optimism in persons with disabilities to claim their political rights. As Sigel notes, political socialization enables individuals to understand political norms and to act accordingly.



At this stage, the government should strengthen outreach programs through sub-district and village-level offices to demonstrate voting procedures and provide direct support. It should also collaborate with disability-focused organizations to provide facilities and tools that support political education.

## 2. Action Phase

It is the government's responsibility to implement direct measures on election day. For example, it must ensure the availability of assistants for disabled voters, who must, in turn, sign Form C3 to ensure voting confidentiality.

Election organizers must also ensure all polling stations are accessible, reducing barriers like stairs and providing Braille templates for blind voters. Furthermore, affirmative action can be applied by mandating the participation of persons with disabilities in political decision-making, mirroring the 30% quota for women.

## 3. Evaluation and Data Collection

The government must consistently collect accurate data on persons with disabilities. The lack of reliable data often stems from informational barriers, leaving many individuals unrecorded. Valid data will allow for yearly evaluations of participation and help guide improvements in the inclusivity of election systems.

By implementing these measures, the government can effectively optimize political rights protections, fulfilling both legal certainty and the principle of equality before the law. The large population of persons with disabilities demands immediate action to eliminate discrimination and promote equal access.

## Conclusion

The protection of political rights for persons with disabilities is an integral part of realizing the rule of law, particularly within the context of democratic and inclusive elections. Within Indonesia's national legal framework, such protections are comprehensively outlined in various statutory regulations. For instance, Law No. 8 of 2016 on Persons with

Disabilities, Article 13, explicitly stipulates the political rights of persons with disabilities, including the right to vote and be elected. Likewise, Law No. 7 of 2017 on General Elections, Article 5, affirms that every citizen, including persons with disabilities, is entitled to participate in the electoral process.

Furthermore, Indonesia's 1945 Constitution guarantees these rights through Article 27(1) and Article 28D(1), which provide for equality before the law and non-discriminatory legal protection. Article 28I(2) further reinforces this by explicitly prohibiting all forms of discrimination, including against persons with disabilities. These constitutional provisions establish a solid legal foundation for the protection and assurance of political rights for persons with disabilities.

However, there remains a significant gap between these legal norms and their practical implementation. Empirical findings indicate that persons with disabilities continue to encounter structural, physical, and administrative barriers when attempting to exercise their voting rights. Inaccessible polling stations, the limited awareness of election officers regarding special needs, and the scarcity of accessible information all highlight the inadequate enforcement of these legal protections. This suggests that legal regulations, though normatively comprehensive, have not been sufficiently translated into practice.

In order to uphold the principle of equality before the law and ensure inclusive and equitable elections, the government must take concrete and sustainable actions to optimize the protection of political rights for persons with disabilities. This process can be executed through several strategic stages:

(1) Socialization and Education Phase: The initial step involves the systematic and widespread dissemination of information to persons with disabilities regarding their political rights. This can be achieved through collaboration with local governments (districts and sub-districts), civil society organizations, and disabled communities across various regions. Educational materials should be tailored to different disability types—for instance, using audio materials for the visually impaired, sign language and visual texts for the hearing and speech impaired, and inclusive interactive media.

(2) Action and Facility Provision Phase: Once political awareness has been established, the government must implement real actions by providing accessible infrastructure and facilities throughout the electoral process. This includes accessible polling station design, Braille templates for ballots, wheelchair ramps, and special training for election officers (KPPS) to accommodate disabled voters in a fair and professional manner. Affirmative action should also be strengthened, such as establishing representation quotas in legislative bodies and promoting active participation of persons with disabilities in political parties and election commissions.

(3) Evaluation and Data Monitoring Phase: The optimization of political rights protection is incomplete without continuous evaluation. The government must develop a data-driven monitoring and evaluation system that is both transparent and accountable. Data collected should include the number of disabled voters, their satisfaction with accessibility, and any remaining barriers. This information is crucial for shaping future responsive and targeted policies.

If these three phases are implemented consistently and in an integrated manner, the principle of equality before the law can be effectively realized in the context of elections. The fulfillment of political rights for persons with disabilities will not only enhance democratic legitimacy but also serve as a tangible manifestation of legal certainty and social justice for all citizens.

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