

Legal Protection of Youth Suffrage

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Abstract. As a large number of young voters still have no identity card (Indonesian: *Kartu Tanda Penduduk/KTP*), the legal protection of youth suffrage is becoming a discourse by the General Election on 17 April 2019. Distribution of eligible citizens' suffrage must be prevented from any obstacles, mainly administrative issue. To the young voters, as the age when registering for the vote are not old enough according to the law, the population administration office is unable to provide electronic identity cards (KTPE), resulting in them not being registered as voters. The lack of electoral literacy and the constraints of administrative requirements make the young voters vulnerable to losing their voting rights. A National Identification Number (Indonesian: *Nomor Induk Kependudukan, NIK*) as the single identity number of each resident is listed on the family card (Indonesian: *Kartu Keluarga, KK*). The ownership of NIK is proof that they have been identified as citizens so that their rights as citizens can be granted. The use of NIK as a basis for granting the right to vote for every citizen who meets the age requirements before the issuance of an identity card is the right way to give the voting rights for young voters. In principle, how can the suffrage of eligible young voters to vote be protected and implemented as normative law research uses primary and secondary legal materials as the main ingredients? The results of the study showed: firstly, it was necessary to record data earlier by visiting schools at senior level. Secondly, the young voters who have been listed in the family card and have a NIK and aged 17+ by showing a family card that can legitimately exercise their right to vote even though the identity card or residence certificate have not been published yet.

Keywords: *legal protection, youth suffrage, elections.*

INTRODUCTION

The voting rights are one of the human rights that must be considered in elections. Law No. 39 of 1999 concerning Human Rights Article 43 paragraph (1) affirms "every citizen has the right to elect and be elected in general elections based on equality rights through voting which are direct, general, free, confidential, honest, and fair by the provisions of the legislation." Departing from these provisions, the government and election organizers are morally and legally obliged to realize it to all citizens with no exception.

The implementation of an accountable and responsive democratic system of government embodied in each state policy formation always cooperates or involves people's representation that has been elected and determined through general elections [1].

According to Mahfud MD, the substance of the democratic system places the people as the main subject in every state policymaking through its representatives in the people's representative institutions [2].

The guarantee of the legal protection of citizens' suffrage in general elections as regulated by the electoral legal framework must be interpreted as an obligation to the government and elections organizers as well as citizens to be realized. Likewise, the mass media plays a role as a controller and voicer if the implementation of the citizens' suffrage protection is hampered or cannot be implemented due to the electoral law, population administration and electoral administration.

Various efforts to eliminate barriers to voice for citizens' suffrage must be removed by the government and election organizers. The guarantee and protection of citizens' suffrage require all parties to realize the implementation of voting rights. Therefore, if there are actions that intentionally obstruct or eliminate the citizens' suffrage to be qualified as violations of law which are threatened with criminal sanctions as stipulated in Law No. 7 of 2017 on Elections Article 531.

The protection of citizens' suffrage is a concern for the International Institute for Democracy and Electoral Assistance (International IDEA) [3] which states that "the voting rights is one of the human rights that requires struggle from time to time." The organization consistently strives for and helps to facilitate the realization of democratization in countries that adhere to the democratic system.

The young voters' turnout is based on the data submitted by the Director General of Population and Civil Registration of Home Affairs Ministry. Based on the data from the List of Potential Election Voters (Indonesian: *Daftar Penduduk Potensial Pemilih Pemilu, DP4*), young voters who would reach the age of 17 until April 17, 2019 (on voting day) were 5,035,887 people. Related to this, Fachrudin [4] stated that the number of young voters was quite large and contributed a significant vote to support the victory of the president and vice-president candidate pairs (Pilpres) and the electability of the people's representatives in the legislative elections (Pileg) of the People's Representative Council (DPR), Regional Representative Council (DPD), and the Regional People's Representative Councils (DPRD). Therefore, it is regrettable that young voters are not taken seriously either by the Candidates for

the President or political parties participating in the General Election.

The importance of legal protection for youth suffrage demands all parties to provide legal certainty. Efforts to protect citizens' suffrage must be made a sustainable movement by all elements of society, academics and community institutions which consistently fight for civil and political rights both from Indonesia and abroad such as: Association for election and democracy (Perludem), The International Institute for Democracy and Electoral Assistance (International IDEA) and the International Foundation for Electoral System (IFES).

The problem concerned with the youth suffrage are; first, the large number of young voters who have no Electronic Identity Card documents (KTPE) which the Election Law uses as the only document required to be able to exercise their voting rights. Second, some young voters have not been recorded yet in the population administration system so that their database of the population does not exist. As a result, they are not allowed to use their voting rights although they are already eligible to vote in the Election.

This study is intended to find alternative solutions to provide legal protection for youth suffrage who have no population documents and who have not been recorded in the population administration system so that they can vote during the implementation of elections. This study is normative legal research using data on primary and secondary legal materials. Data collection uses document review and study of legal literature, while the analysis uses prescriptive analysis.

RESULT

Legal Framework for Guaranteeing Citizens Suffrage

The struggle to grant voting rights to every citizen to be able to exercise their voting rights in the election is a reflection of the strong demand for popular sovereignty. These demands are the right of every citizen who has been eligible to vote. On the other hand, it is a basic obligation for the government and legislative bodies to formulate into election laws as well as election organizers. Synergistic cooperation between the government as a population data provider and the election organizer as a user of population data as well as support from citizens is expected to produce a fair and democratic election.

The Indonesian electoral legal framework places citizens' suffrage as an important part of the human rights perspective. The electoral legal framework covers the constitution and other legal rules under the constitution. As stipulated in the Indonesian Constitution Article 27 paragraph (1) "All citizens are equal in law and government, and are obliged to uphold the government and the law with no exception."

As the implementation of the constitution, Law No. 39 of 1999 concerning Human Rights has explicitly regulated that everyone is free to vote and have political beliefs. The affirmation of the human rights law is a reflection that the suffrage has national dimensions and international/ universal dimensions.

The guarantee and implementation of the suffrage are further regulated in the Election Law, i.e., Law No. 7 of 2017 on Elections. The Election Law regulates the terms of voter and the terms of using voting rights in Article 198 paragraph (1). In the article, it was confirmed that "Indonesian citizens who on the polling day reach 17 (seventeen) years or more, have married, or ever married, have the right to vote." All citizens who meet those requirements have the right to vote.

The inability to use voting rights for citizens who do not have an identity card (KTP) has encouraged parties in the field of democracy and electoral affairs, such as; Perludem, PuSako, Negrit, and Integrity to submit an examination of the Election Law to the Constitutional Court, as stated in Article 348 paragraph (9), saying that "Residents who already have the voting rights as referred to in paragraph (1) letter d can vote at the polling station (Indonesian: *Tempat Pemungutan Suara*, TPS) / overseas polling station (Indonesian: *Tempat Pemungutan Suara Luar Negeri*, TPSLN) by using an electronic identity card".

On the lawsuit of testing the article, the Constitutional court through court decision No. 20 / PUU-XVII / 2019 states that in the provisions of Article 348 paragraph (9), the phrase of "electronic identity card" is contrary to the Constitution so that it has no conditionally binding legal power as long as it is not interpreted "Including a certificate of recording an electronic identity card issued by the Department of Population and Civil Registration or other similar institution which has the authority to do so."

The decision of the Constitutional Court No. 20 / PUU-XVII / 2019, specifically Article 348 paragraph (9), has a fundamental and broad impact on the implementation of elections. The KPU must work hard to prepare various electoral documents, such as the number of ballots, the number of polling stations, and the polling officers. This resulted in increasing the voters' turnout that would impact on the need for ballots and polling stations as well as polling officers.

Regulating the Voting Rights in Electoral Law

Regulating the right to vote of citizens is an important part of the electoral legal framework. The electoral legal framework is the overall legal rules that influence the election, including the constitution, election law, and other legal products derived from election organizer bodies.

The voter registry in each election is updated to respond to the increasing number of voters. The task of updating the voter registry by the Election Law is given to all levels of election organizers (General Election Commission). Therefore, election organizers must strive to ensure that all citizens with voting rights can be registered to be able to vote their choice on polling day.

Regulating the requirements for citizens who are able to use their voting rights in detail is stipulated in Law No. 7 of 2017 Article 198 paragraph (1) as mentioned above. Therefore, all Indonesian citizens can exercise the rights to vote except those whose rights are abolished by law. UU no. 7 of 2017 Article 348 (1) further details the

requirements of citizens who are able to exercise their rights to vote, which includes: a) the owner of an electronic identity card registered on the final voter list at the polling station concerned; b) the owner of an electronic identity card registered in the additional voter list; c) the owners of electronic identity cards that are not listed on the final voter list and additional voter lists, and d) The residents who have the right to vote.

Referring to the provisions of Article 348 paragraph (1) letter d, the guarantee of suffrage for every citizen to exercise their voting rights is already available although they have no population document or KTP yet. This provision is reaffirmed by the General Election Commission Regulation (PKPU) Number 11 of 2018 on the Arrangement of Domestic Voters Lists in the Implementation of Elections as amended by the PKPU No. 37 of 2018 by using a certificate issued by the Office that organizes population affairs and local civil registration.

The Constitutional Court through decision No.20 / PUU-VII / 2019 states: "the phrase of " electronic identity card "in Article 348 paragraph (9) of Law No. 7 of 2017 on General Elections is declared contrary to the Indonesian Constitution and has no a conditionally binding legal power as long as it is not interpreted "Including a certificate of recording an electronic identity card issued by the Department of Population and Civil Registration or other similar institution which has the authority to do so."

In conclusion, the regulation of the Election Law, General Election Commission Regulation No. 11 of 2017 as amended by the PKPU No. 17 of 2018 and the Decision of the Constitutional Court Number 20 / PUU-XVII / 2019 have not provided legal certainty for the protection of citizens' suffrage who have not yet conducted a KTP recording but already have a national identification number (NIK) who would have reached the age of 17 at the election day to be able to vote. The estimation of the conditions and the number of citizens who have the right to vote are dominated by young voters and those who live in remote villages and mountains that have not been reached by population data recording programs through electronic KTP programs.

Making Regulations: The National Identification Number (NIK) as the basis for the Use of Citizens' Suffrage who have no KTP

The large number of citizens who have no electronic identity card as a legal document for using their voting rights is a serious problem. This is because the electronic identity card is the only identity documents used in elections.

Like the Indonesian population system, every family member who has a family card (KK) namely a family identity card that contains data on names, arrangements, and relationships in the family, and the identity of family members will be included in the family card. Family members who have listed and registered in the KK automatically have a national identification number (NIK). NIK is a population identity number that is unique or distinctive, single, and attached to someone

who is registered as an Indonesian resident (Law No. 23 of 2006, Article 1 number 12).

Based on the owned NIK, it means that they already have a legal and complete identity as citizens, although still in the form of NIK. This means that because each NIK is not the same, this NIK can be used as a legal basis to exercise the voting rights if they already reach the age of 17, proven by the family card (KK) or has married proven by a valid marriage certificate. For the legal solution to provide legal protection for young voters, the law-making institution formulates this into electoral law, so the election organizers have the basis and legal certainty in acting.

Recording Population Data Earlier

Reflecting on the number of young voters who do not have a government identity card, it is necessary to take active steps so that when citizens enter the age of 17, their KTP can be issued and the absence of a KTP for those aged 17 does not occur.

The basic reason why young voters are important to note in the use of their voting rights [5]; first, they have reflected maturity in thinking and acting; second, their participation determines the direction of the nation's going forward; third, it shows the form of responsibility toward their choices; and fourth, it shows the form and reflection of not ignorant to the nation.

The participation of young voters in the election reflects the participation in determining the fate of the nation in the future. These reasons are very rational and are in line with the strengthening and protection of youth suffrage. The large number of young voters holds a key position in the 2019 presidential election and the general election [6]. The statement was debated but was quite rational considering that their numbers are large and significant enough to win the presidential election and the legislative elections.

A large number of young voters do not have KTP when voting so that the central government needs to make regulations as a basis for local governments to overcome. In addition, the young voters at the age of 17 can be immediately issued a KTP after they make reports. As a follow-up, the district/ city government should take steps to register and record population data for all 12-15-year-olds kids. Through an earlier data recording program, efforts to realize an electronic ID card program for citizens can be realized so when they come to age 17, there will be no problem with population documents to exercise their voting rights.

CONCLUSION

The regulation of citizens' suffrage in electoral law is adequate, but there are still problems with the terms of use of voting rights that require the use of KTP. The decision of the Constitutional Court No. 20 / PUU-XVII / 2019 opens a protection room for citizens' suffrage who have no KTP document. The Constitutional Court's decision, however, still did not reach all citizens, especially those who did not yet have KTP. Every citizen registered in the Family Arrangement Card (KSK) is

certain to have a NIK. Based on the NIK, it should be used as a basis for using voting rights, although the KTP or residence certificate has not been printed. This is a legal breakthrough to protect the voting rights of young voters. The government needs to make regulations and proactive steps to register children aged 12 to 15 years so that at the age of 17 years, they can print their ID cards immediately after reporting.

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