



Guarantee of Rights In Holding Elections

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Abstract- This study aims to find out and analyze election integrity as a framework for guaranteeing the election rights and fairness in the modern era. The right to vote in Indonesian general elections is strictly protected. General elections are part of democracy and Indonesian citizens must participate. This is especially true in countries where the right to participate in general elections is heavily depended to everyone over the age of 17. Risk management is in place to ensure that all citizens can participate in elections. Local election commissions are also responsible for ensuring that general elections are held. In addition, Indonesian citizens who studies or work abroad will also have to hold general elections. General elections abroad are regulated by a regulation General Election Commission Regulation (PKPU Number 9 of 2018 concerning Voting Overseas in General Elections. However, not all Indonesian citizens will be able to vote in her upcoming 2024 elections, this requires a lot of consideration for the government and Indonesian representatives abroad. One of the issues is residency and immigration documents that has to be clear to enter the general election. If an Indonesian citizen stays illegally, the citizen could be suspect to enter the country illegally by the not just their government but also by the abroad government they currently live in. For the time being, Bawaslu RI relies only on Indonesian citizens reporting to their respective countries. This is indeed a problematic for the Indonesian government and requires a holistic, integrated and comprehensive approach. Dispatchers must have reachable data and be able to ask representatives to contact them or submit data from local migrant workers to RI representatives. Indonesia citizens to follow the latest information issued by the KPU or diplomatic representatives.

keyword: general election, government, immigration document

I. INTRODUCTION

Elections are a common occurrence, especially in democratic countries. They provide the primary means for ensuring that governments remain responsive and accountable to their citizens. Much though depends on the rules used in these elections.[1] Indonesia itself holds elections once every five years. Elections are held to elect the President, Vice President, members of the DPR, DPD, and Provincial and Regency / City DPRD according to the principles of direct, general, free, secret, honest and fair. From the explanation it is very clear that in its implementation, the principle of elections is very much a benchmark. Clearly, the principles of elections refer to the rights and responsibilities of the community. The right to vote and participate in free and fair elections is a fundamental cornerstone of any democratic society. The concepts of “fair” and “free” must be clearly defined and distinguished from other determinants of democracy. The two concepts should be also translated

into some specific criteria that can allow an assessment of how free and fair an election is. It ensures that citizens have a voice in choosing their representatives and shaping the direction of their nation. To protect and uphold this vital democratic process, guarantees of the right to hold elections are crucial. The upcoming 2024 elections, this requires a lot of consideration for the government and Indonesian representatives abroad.[2] Democratic Electoral Systems (DES) dataset on electoral rules that covers democratic elections from 1946 (or independence). One of the issues is residency and immigration documents that has to be clear to enter the general election. If an Indonesian citizen stays illegally, the citizen could be suspect to enter the country illegally by the not just their government but also by the abroad government they currently live in. The International Institute for Democracy and Electoral Assistance (International IDEA) 2019 report mentions the absence of regulations, intersection between business and politics, informal management practices of parties and campaigns, unrealistic rules and regulations and discourage competition as challenges in the region.[3] For the time being, Bawaslu RI relies only on Indonesian citizens reporting to their respective countries. This is indeed a problematic for the Indonesian government and requires a holistic, integrated and comprehensive approach. In Indonesia, where the problems of political financing, e.g. vote-buying and patronage relations with businesses, are tolerated, it is widely accepted that petty corruption is widespread during elections.[4] Dispatchers must have reachable data and be able to ask representatives to contact them or submit data from local migrant workers to RI representatives. Indonesia citizens to follow the latest information issued by the KPU or diplomatic representatives.

The electoral rights guarantee encompasses a range of principles and safeguards that aim to ensure that elections are conducted in a transparent, inclusive and equitable manner. They are designed to protect individual freedoms, encourage political participation, prevent fraud and foster public confidence in the electoral process. This right issue is of great concern to the government, especially the right to vote and participate in elections by Indonesian citizens who are abroad. In accordance with Article 43 Paragraphs (1 and 2) of Law Number 39 of 1999 concerning Human Rights (HAM) which reads, "every citizen has the right to be elected and vote in general elections based on equal rights through direct, general, free, secret, honest and fair voting in accordance with the provisions of laws and regulations". "every citizen has the right to participate in government directly or through a freely chosen representative, in the manner prescribed by law".

But in the application of each there are many inaccuracies. Like the article quoted from [kompas.com](https://www.kompas.com)[5], regarding the statement of the Ministry of Foreign Affairs that in organizing the 2024. General election it could not register all Indonesian citizens who were abroad, due to problems with population and immigration documents. This is of course a question, what about their voting rights? But in reality this is not one hundred percent the fault of the government. The lack of orderliness of Indonesian citizens in fulfilling migration documents is the core problem. The organization of general elections (elections) for Indonesian citizens (WNI) who are abroad is regulated by a regulation called the General Election

Commission Regulation (PKPU) Number 9 of 2018 concerning Overseas Voting in General Elections. Here are some relevant rules for Indonesian citizens who are abroad:

Overseas Voter Registration: Indonesian citizens who are abroad must first register as overseas voters. They can register online through the system provided by the General Election Commission (KPU) or through the diplomatic or consular representative of the Republic of Indonesia in their country of residence.

Determination of Polling Places (TPS) Abroad: KPU will designate polling stations in the country or region where Indonesian citizens live abroad. These polling stations are usually located at embassies, consulates, or other designated locations. Information about polling stations will be announced publicly.

Registration of Candidates for DPR-RI Members from Abroad: Indonesian citizens residing abroad can also register as candidates for the House of Representatives of the Republic of Indonesia (DPR-RI) from overseas electoral districts. The procedures and requirements for registering DPR-RI candidates are regulated in another PKPU.

Voting Methods: Overseas voters have several options for voting. They can exercise their voting rights in person at designated polling stations, using ballots sent by post, or using the electronic voting system (e-voting) set up by the KPU.

Monitoring and Complaints: Like elections at home, elections for Indonesian citizens abroad also involve oversight and complaint mechanisms. Monitoring can be conducted by independent observers, including civil society organizations and international institutions. Indonesian citizens abroad can also file complaints if there are allegations of violations or unfairness in the electoral process.

Announcement of Election Results: After the election is over, the election results at overseas polling stations will be counted and announced publicly. The results of the overseas elections will be consolidated with the results of the domestic elections to determine the representatives of the people's representatives from the overseas electoral districts.

The problem is that regulations and procedures related to general elections for Indonesian citizens who are abroad can change. Therefore, it is very important for Indonesian citizens who are abroad to follow the latest information issued by the KPU or diplomatic representatives. From the above problems, the author highlights the problem of justice for the guarantee of rights that actually occurs in society. Because despite the many actions taken by the government, there are still complaints from election participants about the running of the election. Therefore, this research needs to be done to reveal the answers to the concept of rights guarantee in the organization of elections. This can even lead to misunderstandings due to both parties, between organizers and participants, due to a lack of awareness of the rights and responsibilities of each party.

II. RESEARCH METHOD

The research method used by researchers is internet searching and literature studies, namely:

1. Internet Searching

Internet searching is the process of searching data through internet media to obtain information based on references, journals, articles or legislation online invitations related to research object

2. Studi Literatur

Literature study is a series of activities related to methods of collecting library data, reading and taking notes, and managing research materials.[6] Literature studies are carried out by each researcher with the main objective of finding a basis/foundation for obtaining and building a theoretical basis and framework. By conducting a literature study, researchers have a broader and deeper understanding of the problem to be studied. Doing to this literature study was carried out by intermediary researchers after them determining research topics and establishing the formulation of the problem, before them plunge into the field to collect the necessary data.[7]

III. FINDINGS AND DISCUSSION

The right to vote is a right given by the state to its citizens with certain conditions in General Elections (Elections) as well as in the Elections of Governors, Regents and Mayors (Elections). In Law Number 7 of 2017 concerning General Elections article 198 paragraph (1) states that "Indonesian citizens who on the day of voting have reached the age of 17 (seventeen) years or more, have married, or have been married have the right to vote". Recognition and protection of human rights is one of the principles in a democratic state of law, as well as our country Indonesia, as a democratic state of law, it is considered a necessity to include articles on human rights in our constitution, so that in the second amendment to the Constitution of the Republic of Indonesia (UUD 1945), articles 28 A to 28 J of the Constitution were included as constitutional recognition and protection of human rights. Article 28D paragraph (1) and paragraph (3) of the 1945 Constitution and Article 43 paragraph (1) of Law of the Republic of Indonesia number 39 of 1999 concerning Human Rights are the foundations on which the pillars of the protection and safeguarding of the right to vote for voters in general elections and elections as a form of protection of Human Rights. Davis-Roberts and Carroll stated that there are four basic elements of political rights that must be fulfilled by the state, namely: First, the state must guarantee that every voter can participate in elections. Restrictions on the right to vote can only be carried out based on certain objective reasons. Second, every individual has the same voting rights based on the principle of one person-one vote-one value (one person-one vote-one value). Third, voting must give voters the freedom to determine their vote based on the principle of confidentiality. Fourth, election organizers must make efforts to prevent corruption or other forms of violation of election administration.[8] According to Harris G.

Warran, Election provides an opportunity for every citizen to elect his or her representative in The government will determine the direction of the policies implemented by the government.[9]

General Election Commissions (KPU) formed an Overseas Election Committee (PPLN) to organize elections abroad. Overseas elections are supervised by the Supervisory Committee overseas Elections (Panwaslu LN) as an extension of Bawaslu. If a violation occurs, the Overseas Panwaslu will report it to Bawaslu will then decide cases of election violations and election disputes in domestic. So that every Indonesian citizen who is in the country or in foreign countries have the same political rights and there are no differences at all.[10]

In recent decades, Voter Data Updating is still a series of activities that are periodic in one stage of elections and elections and not an activity that is sustainable (continuity) outside the stages of elections and elections. The Ministry of Foreign Affairs recognizes that not all Indonesian citizens abroad can be registered as voters in the 2024 elections, due to problems with population and immigration documents. From the government's point of view, Indonesian citizens who can be registered as voters must first have clear population and immigration documents. This creates problems for Indonesian citizens who have "undocumented" status for various reasons in foreign countries. In a virtual discussion entitled "Preparations, Participation Levels, and Challenges of the 2024 Elections Abroad", Expert Staff to the Minister of Foreign Affairs for Inter-Agency Relations, Muhsin Syihab said that if we talk about undocumented, especially PMI (Indonesian migrant workers), it cannot be separated from the process of their departure abroad (23/1/2023).

Therefore, reaching them requires cooperation with all parties. Both BP2MI, the Immigration Office, the Ministry of Manpower and of course the Indonesian representatives, continued Mushin. Muhsin acknowledged that the limited number of Overseas Voter Registration Committees (Pantarlih) makes the work of the Ministry of Foreign Affairs to record Indonesian citizens in each Indonesian representative abroad not easy. Mechanically, due to this constraint, the Ministry of Foreign Affairs is forced to rely on undocumented citizens to report themselves to the Indonesian representative offices in their respective countries. Mushin said that although we try to reach out in various ways, if we only rely on Indonesian representatives, frankly it will be very difficult. It needs a holistic, integrative and comprehensive effort from the beginning of the departure plan and so on. He acknowledged that the situation in the field does not always allow these undocumented Indonesian citizens to report themselves. There are those who face problems with working time, employer / supervisor permits, to the migration process which from the start was not orderly population documents or in other words "illegal". this problem becomes the point the beginning of the non-fulfillment of political rights for all Indonesian citizens. The government must move actively traces overall data on Indonesian citizens abroad to be able to provide protection of human rights and so that Indonesian citizens do not experience problems which is detrimental to him personally.[11]diya The Chairman of the Indonesian Election Supervisory Agency (Bawaslu) Rahmat Bagja even revealed that in Malaysia, reflecting on the 2019 experience, there were many migrant workers who could not

vote because their passports were held by employers. Therefore, Muhsin hopes that institutions that oversee PMI can provide data on PMI to coordinate with the Ministry of Foreign Affairs. It is also possible that the sending agencies have data that can also be expected to try to reach them and ask them to contact representatives. Or even the agents can also convey data from migrant workers there to Indonesian representatives.

IV. CONCLUSION

The right to vote is a right granted by the state to its citizens in general elections and elections for governor, regent and mayor. This is regulated in Law Number 7 of 2007 concerning General Elections. The importance of the recognition and protection of human rights in a democratic state of law such as Indonesia, which is reflected in the second amendment to the Constitution of the Republic of Indonesia (UUD 1945) by including articles on human rights.

However, in recent decades, voter data updating has remained a periodic activity in the electoral and electoral stages, rather than an ongoing activity. This causes problems for Indonesian citizens abroad who are not registered as voters in the 2024 elections due to problems with civil registration and immigration documents. The limited number of Overseas Voter Registration Committees (Pantarlih) makes data collection of Indonesian citizens in Indonesian representatives abroad not easy. The Ministry of Foreign Affairs is forced to rely on reports from Indonesian citizens with "undocumented" status to Indonesian representatives in their respective countries. This limited access requires holistic, integrative, and cooperative efforts from various parties, including institutions that house migrant workers.

It is important for these institutions to provide data on migrant workers and coordinate with the Ministry of Foreign Affairs, as well as try to reach out and ask Indonesian citizens to contact Indonesian representatives to submit data on migrant workers to Indonesian representatives. The aim is to ensure participation and protection of the right to vote for voters in elections and elections as part of the protection of human rights.

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