

**Implications of Constitutional Court Decisions on The Protection of The Voting Rights
of Persons with Mental Disabilities
(Study in Bali Province and Special Region of Yogyakarta)**

*M. Syafi'ie¹, Despan Heryansyah¹, Fatma Reza¹, Nabhojit Dey²

¹Universitas Islam Indonesia, Indonesia

²University of Sussex and Xavier Institute of Social Service (XISS), United Kingdom

* m.syafiie@uii.ac.id

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Abstract

Normatively, the right to vote for persons with mental disabilities in elections was not fully recognized in Article 57 paragraph (3) of Law no. 8 of 2015. This law stipulates that one of the conditions for voters in elections is "not having mental/memory problems". This phrase interpreted broadly that all persons with mental disabilities are not entitled to the right to vote. This phrase was then tested by the Constitutional Court, whereupon the Constitutional Court issued Decision No. 135/PUU-VIII-2015 which substantially invalidates the phrase *let's talk* and granting the right to vote in general elections for persons with mental disabilities. This decision is considered a progressive leap taken by the Constitutional Court to ensure fair elections, because people with mental disabilities are not the same as people with schizophrenia, with a more humane approach and adequate medicine, people with mental disabilities are the same as people without mental disabilities. Therefore, the author is interested in seeing more deeply how this Constitutional Court Decision can fulfill the right to vote for persons with disabilities. This research is a type of non-doctrinal research that uses both primary and secondary data. The areas that are used as research objects are the provinces of Bali and DIY. The results of the study show that from a quantitative aspect there has been an increase in the participation of voters with mental disabilities. However, the implementation of the Constitutional Court's decision by the election organizers is also still encountering various obstacles, both administration, infrastructure, and services.

Keywords: Constitutional Court, Elections, People with Mental Disabilities.

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INTRODUCTION

This research departs from the author's anxiety about the understanding of the Indonesian people about people with mental disabilities. People with mental disorders/disorders or mental disabilities are equated with insane people in the classical sense, namely people who are considered to have lost their minds so that they behave, and act abnormally and then become lawless. This condition is even more concerning because it also occurs in universities, places where true knowledge and knowledge is found and developed, but the understanding of mental disabilities is still very concerning (Halalia, 2017). The author still remembers well how when the Constitutional Court issued Decision No. 135/PUU-VIII-2015 which basically provides the right to vote in general elections (elections) for persons with mental disabilities, many *meme* scattered on social media, especially WA groups, which criticized the Constitutional Court because it was considered to have given voting rights to insane people.

Elections and democracy are two important elements in realizing people's sovereignty (Budiman, 2002). The essence of elections in a democratic country is the manifestation of people's sovereignty which is manifested in the delivery of citizens' constitutional rights (suffrage rights) in an honest and fair election (*free and fair elections*) (Lailam, 2017) (Suranto, 2020). Elections function to convert the will of the people into positions in state institutions (Mahendra, 1996). Therefore, state officials from the election results will work to carry out the people's mandate. For the process of converting the will of the people to produce representatives of the people or officials who are in accordance with the will of the people, the election process must be carried out honestly and fairly (MD, 2011). To ensure that it can run honestly and fairly, elections must guarantee what is called electoral justice. Electoral justice is an important element in ensuring the effectiveness and legitimacy of democratic elections (McLoughlin, 2019) (Ayoub, 2010).

There are several characteristics of technically democratic elections in the holding of elections, namely: *First*, presentation, the degree of voter coverage in the voter list, the degree of updating of the voter list, and the degree of voter reach 95-100 percent. *Second*, total *non-voters* and the low number of invalid votes in the holding of various types of elections. *Third*, guarantees various forms of service to voters that make it easier for registered voters to exercise their right to vote, such as voting before voting day for voters who are unable to attend on voting day (*absentee voting*), voting through the post office (*mail voting*), special polling stations (TPS), mobile TPS (*mobile voting*), and convenience for voters (Virginia Atkinson, 2017) who are categorized as persons with disabilities (Ramlan Subakti, 2011). Persons with disabilities, especially persons with mental disabilities (Law No. 8 of 2016 concerning Persons with Disabilities. The categories of persons with disabilities are (4) four: physical, mental, sensory, and intellectual disabilities) who in their daily interactions still often receive discrimination including in the context of general elections (Degener, 2000).

In daily interaction with society, the term mental disability, which is better known as mental disorder and/or memory disorder, is always imagined as a "crazy" condition, or what is medically referred to as a mental illness (psychosis). When in fact "crazy" is only one type of mental abnormality. Another type of mental abnormality is mental disorder (neurosis), which has a very wide range of categories. The broad range of categories of mental disorders and/or memory disorders in everyday language can be seen from various terms, including "stress", "anxiety", "paranoid", "talkative", "phobias", and "bad thoughts". Of course, the conditions are not the same between people with mental disorders such as psychosis and people who "only" experience mild levels of stress (Consideration of the Constitutional Court Decision Number 135/UU-VIII-2015).

Normatively, initially the right to vote for persons with mental disabilities in this election was not fully recognized, namely with the provisions in Article 57 paragraph (3) of Law no. 8 of 2015. This law stipulates that one of the conditions for voters in elections is "not having mental/memory problems". This phrase is then interpreted broadly that all persons with mental disabilities are not entitled to the right to vote. In fact, mental disabilities have very diverse categories, and some are still able to make their own decisions, but some are not (Amsari, 2020).

The provisions of Article 57 paragraph (3) were tested by the Constitutional Court and were annulled by the MK, in its consideration the Court said, "*Considering that before the law, especially in relation to the right to vote and the right to be registered on the election list, which*

presupposes the existence of the ability to make choices, each category of mental disorder and/or memory disorder as described above should not be treated equally... .. not everyone who is experiencing mental disorders and/or memory disorders will lose the ability to become voters in general elections." From these legal considerations the Constitutional Court agreed that everyone has different abilities in making choices or making decisions, including people who are mentally / memory impaired (Syamsi, 2020).

After the cancellation of this norm by the Constitutional Court, the question is what the implications for are fulfilling the right to vote for persons with disabilities. This question, of course, is not only related to increasing the quantity of participation of persons with disabilities in elections, but also how the availability of resources to election organizers, their paradigm in viewing persons with mental disabilities, internal policies to remove various barriers to persons with mental disabilities, and so on (Anngono, 2019).

So far, there has indeed been research related to fulfilling the rights of persons with mental disabilities in elections, but only looking at it from the normative aspect of the Constitutional Court's decision alone or looking at it from the aspect of increasing the quantity of persons with mental disabilities in the field. For example, look at Bayu Dwi Anggono, et al., he researched how to fulfill the rights of persons with disabilities after the Constitutional Court Decision in East Java and Bali, but this research only looked at the quantitative aspect of persons with disabilities, not the personal barriers of persons with disabilities (Bayu Dwi Anggono, 2019). See also Fajri Nursyamsi and Muhammad Nur Ramadhan, they see how the substantive considerations of MK judges are related to the universal paradigm in viewing persons with disabilities. This research is more on the analysis of the judge's decision. Apart from that, there is also Tony Yuri Rahmanto, he researches the fulfillment of the rights of persons with mental disabilities by the Constitutional Court from a human rights perspective. This research, in addition to looking at some of the aspects above, will also examine other implications such as the paradigm of election management and internal policies to eliminate barriers for people with mental disabilities.

RESEARCH METHODS

This research is a type of non-doctrinal research, for two reasons. *First*, the author will not examine the normative aspects of protecting the rights of persons with disabilities, both in laws and regulations and the Constitutional Court's decision, but also to see how these normative provisions are implemented. *Second*, the author will conduct interviews and collect field data to see how the implementation and obstacles faced by election administrators in fulfilling the rights of persons with disabilities. The approach that the writer will use is (Mamudji, 1985): *statute approach* researchers used to analyze the judge's decision in Number 135/PUU-VIII/2015. *Comparative approach* researchers use to compare decisions with a developing theoretical and scientific framework. Final, *conceptual approach* researchers use it to see the relevance of the judge's decision to the protection of justice in elections. The data to be used in this study are primary data and secondary data simultaneously. The authors obtained primary data from field interviews, while secondary data came from judges' decisions, laws and regulations, and references related to elections and people with mental disabilities. Furthermore, the collected data will be narrated in the form of a series of ideas then reviewed,

studied, and discussed to be presented in a qualitative descriptive manner to enrich and support the researchers' arguments (Haberman, 2009).

RESULT AND DISCUSSION

A. The Urgency of Fulfilling the Rights of Persons with Mental Disabilities in Elections

Electoral justice is an important instrument for upholding the law and fully guaranteeing democratic principles through free, honest, and fair elections (Orozco-Henriquez, 2010). Persons with disabilities often experience discrimination every time there is a general election momentum, where election facilities are often inaccessible, and election officials' services are not friendly to persons with disabilities.

Violations of the suffrage rights of persons with disabilities have prompted a group of persons with disabilities to submit a judicial review to the Constitutional Court. People with disabilities netra on behalf of Suhendar, Yayat Ruhayat, Yuspar and Wahyu filed *judicial review* Article 142 paragraph (2) of Law no. 8 of 2012 concerning General Elections for Members of the DPR, DPD and DPRD to the Constitutional Court, which essentially disputes Article 142 paragraph (2) because it does not include the phrase '*template braille*' which results in persons with visual disabilities not being able to vote fairly in the elections for members of the DPR and Provincial and Regency/City DPRDs. The applicants state that Article 142 paragraph (2) contradicts Article 28I paragraph (2) of the 1945 Constitution which states that everyone has the right to be free from discriminatory treatment on any basis and is entitled to protection against discriminatory treatment. In this study, the researchers stated that the general election organizers had violated the suffrage rights of persons with disabilities and needed to improve the governance of holding general elections in the future.

In 2018, researchers wrote in the national newspaper Sindo about the polemic on the right to vote for people with mental disabilities. In this paper, the researcher stated that the General Elections Commission rejected the objections of a party which questioned the inclusion of people with mental disorders (ODGJ) in the final voter list (DPT). The KPU boldly stated that they have a strong enough foundation to include people with mental disorders on the final voter list if persons with mental disabilities have a health certificate from a local doctor. The author's response to the KPU is twofold. First, appreciation because this institution has respected the political rights of ODGJ, which in Law no. 8 of 2016 concerning Persons with Disabilities has been included as part of the mentally disabled. Second, the requirement for a health certificate from a doctor as part of fulfilling the right to vote for the mentally disabled needs to be discussed further. The requirement to be physically and mentally healthy for persons with disabilities has long been a frightening specter, in practice this requirement has resulted in serious discrimination.

The political rights of persons with disabilities, including persons with mental disabilities, have been guaranteed in laws that specifically regulate the rights of persons with disabilities. In Article 13 of Law no. 8 of 2016 stated that political rights for persons with disabilities include the right to vote and be elected to office; vote for political parties and/or individuals participating in general elections; participate actively in the general election system at all stages and/or parts of its implementation; obtain the accessibility of infrastructure and facilities for holding general elections, elections for governors, regents/mayors, and elections for village heads or by other names; and get political education.

This urgency is emphasized in Article 75 paragraphs (1) and (2) of this Law. This law mandates obligations to the central and regional governments to ensure that persons with mental disabilities can participate effectively and fully in political life and guarantee the rights and opportunities for persons with disabilities to vote and chosen. The government, in this case the responsibility of the KPU and KPUD should pay attention to the diversity of disabilities and ensure that election procedures, facilities and tools are appropriate, accessible, easy to understand and can be used by persons with disabilities. The law that specifically guarantees the right to vote for people with disabilities is Law no. 19 of 2011 concerning 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities. Article 29 of this Convention emphasizes that the state must guarantee the political rights of persons with disabilities and ensure the enjoyment of these rights on an equal basis with other people.

The researcher's writing is also based on the Constitutional Court's decision on the judicial review conducted by the Healthy Soul Association, the General Election Center for Access to Persons with Disabilities (PPUA PENCA), and the Association for Elections and Democracy (PERLUDEM) on article 57 paragraph (3) letter a of Law no. 8 of 2015 concerning Amendments to Law no. 1 of 2015 concerning Stipulation of Government Regulation in Lieu of Law No. 1 of 2014 concerning the Election of Governors, Regents and Mayors. Article 57 paragraph (3) letter a state that one of the requirements for an Indonesian citizen to be registered as a voter is a person who is "not mentally disturbed". The petitioners considered this provision to have the potential to eliminate the right of a citizen to be registered as a voter and cast his vote in the holding of elections. This article is considered detrimental to the constitutional rights guaranteed in Article 27 paragraph (1) of the 1945 Constitution which states that all citizens have the same position in law and government, and Article 28 D paragraph (1) of the 1945 Constitution which states that everyone has the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law.

The Court is of the opinion that mental disorders and memory disorders are two things that have different characteristics. Mental disorders and memory disorders are two interrelated categories, but they are not always easily equated. Impaired memory (memory) is a problem caused by a decline or decrease in physical quality, namely the brain as a vehicle for storing and processing memories, while mental disorders are not always caused by a mere problem of decreasing the physical quality of humans (Consideration of the Constitutional Court Case Number 135/PUU-VIII/2015).

Each type of disorder, both mental disorders and memory disorders, has various derivatives. Thus, according to the Court, the use of the punctuation mark "/" (slash) in the phrase "mental/memory disorder" as stated in Article 57 paragraph (3) letter a must be emphasized not in the context of equating mental disorders with memory disorders, but rather a grouping of two categories in the form of mental disorders and memory disorders as a group that is excluded from citizens who are entitled to be registered in the voter list.

To limit the rights of voters who happen to be people with mental disorders and/or memory disorders, laws must pay close attention to the characteristics of each type/type of mental disorder and/or memory impairment of voters. The DPR in its statement said that in interpreting the phrase "mental/memory impaired" it must refer to the context of Article 1 number 1 and number 3 of Law 18/2014 concerning Mental Health, as well as Article 148 of

Law 36/2009 concerning Health. Article 1 of the Mental Health Law states that, "In this Law what is meant by:

"Mental health is a condition in which an individual can develop physically, mentally, spiritually and socially so that the individual is aware of his own abilities, can handle pressure, can work productively, and is able to make a contribution to his community". "People with Mental Disorders, hereinafter abbreviated as ODGJ, are people who experience disturbances in thoughts, behaviors, and feelings which are manifested in the form of a group of symptoms and/or significant changes in behavior can cause suffering and obstacles in carrying out one's functions as a human being."

Meanwhile, Article 148 of the health Law states that:

"(1) People with mental disorders have the same rights as citizens. (2) The rights referred to in paragraph (1) include equality of treatment in every aspect of life unless laws and regulations state otherwise."

The Mental Health Law in conjunction with Article 150 of the Mental Health Law stipulates that a mental health examination for legal purposes must be carried out by a mental health specialist and even involve specialist doctors in other fields and/or clinical psychologists. General election administrators are certainly not the right institution to carry out such a task because election organizers are not designed to carry out mental and/or memory health diagnoses. The absence of appropriate guidelines and institutions to implement the provisions of Article 57 paragraph (3) letter a has the potential to cause violations of the constitutional rights of prospective voters to be registered as potential voters (Considerations of the Constitutional Court in Case Number 135/PUU-VIII/2015).

Article 57 paragraph (3) letter a according to the Court has equated the consequences for all categories of people with mental disorders and/or people with memory disorders. If the provisions of Article 57 paragraph (3) letter a are independent provisions and therefore contain legal norms that also stand alone, the Court is of the opinion that such provisions indicate a violation of the constitutional rights of the Petitioners to vote [vide Article 22E paragraph (1)] and to obtain legal recognition [vide Article 28D paragraph (1)]. Especially when Article 57 paragraph (3) letter a is read in relation to paragraph (4) which then stipulates that voters who happen to be mentally and/or mentally disturbed at the time of voter registration will lose their right to vote in the general elections for that period, which the time for holding general elections is different from the time for voter registration (Consideration of the Constitutional Court in Case Number 135/PUU-VIII/2015).

Decision of the Constitutional Court (MK) Number 135/PUU-VIII/2015 (Decision of the Constitutional Court 135) brings a new perspective in protecting the right to vote for persons with mental disabilities in Indonesia. This decision acknowledges that mental/memory disorders cannot be equated between one person and another, so that it cannot be a requirement for registering a person as a voter in the General Election (Election) and Regional Head Election (Pilkada). The Constitutional Court's decision 135 plays a major role in the state's efforts to recognize the legal capacity of people with mental disabilities, while protecting their right to vote. The changes brought about by the Constitutional Court Decision 135 are in line with changes that have also occurred in international legal instruments in interpreting the right to vote for persons with mental disabilities. In the concept of Human Rights (HAM), the right to vote is part of the civil and political rights listed in the International Convention on Civil and

Political Rights (*International Convention of Civil and Politic Rights – ICCPR*). Initially, the ICCPR included mental illness as a reason for limiting the right to vote for persons with mental disabilities (*derogable rights*). However, after the ratification of the Convention on the Rights of Persons with Disabilities (*Convention on The Rights of Persons with Disabilities – CRPD*), then the right to vote for persons with disabilities cannot be limited. In fact, the state is obliged to remove several obstacles to the exercise of the right to vote for persons with disabilities, which has the potential to limit or eliminate the right to vote for persons with disabilities. In the context of the right to vote for persons with mental disabilities, the state's obligation is to acknowledge legal capacity, and strive to support persons with mental disabilities to be able to make their own decisions independently.

Apart from this, the Constitutional Court Decision 135 is also in line with the approach *continuum* (a series of processes) in assessing the legal capacity of persons with disabilities. In this approach, persons with disabilities are recognized as legal subjects, or parties who have rights, but to exercise their rights, an assessment is necessary, especially in relation to decision-making abilities. The Constitutional Court decision 135 is an example of the active role of the state in removing obstacles for persons with mental disabilities to have and use their right to vote, especially in general elections.

What is meant by intellectual disability is the disruption of thought functions due to below average intelligence. For example, slow learner, mentally retarded, and *down syndrome*. Mental disabilities are disturbances in the functioning of thought, emotion, and behavior. The variants are quite diverse. Exist *schizophrenia*, bipolar, depression, *anxiety* (extreme anxiety), and personality disorders. These five conditions fall into the psychosocial category. They are what are often called people with mental disorders (ODGJ) (Handoko, 2022). Apart from the psychosocial categories, there are also categories of developmental disabilities that affect social interaction skills. This is still a type of mental disability. For example, autism and hyperactivity. This logic can be read in the consideration of the Constitutional Court decision below (Consideration of the Constitutional Court Decision Number 135/PUU-VIII/2015):

".....if what is intended by the legislators that a person who is excluded from voter registration is a person with psychosis (crazy), who has the characteristics of living a homeless life, eating carelessly, is asocial, not even aware of his own existence, according to the Court, this matter does not need to be specifically regulated because people with psychosis certainly, with reasonable reasoning, will not be registered by the voter registration officer because a person with such psychosis simply does not have the desire to vote..."

In daily interaction with society, the term mental disorder and/or memory disorder is always imagined as a condition of "crazy", or what is medically referred to as mental illness (psychosis). When in fact "crazy" is only one type of mental abnormality. Another type of mental abnormality is mental disorder (neurosa), which has a very wide range of categories. The broad range of categories of mental disorders and/or memory disorders in everyday language can be seen from various terms, including "stress", "anxiety", "paranoid", "talkative", "phobias", and "bad thoughts". Of course, the conditions are not the same between people with mental disorders such as psychosis and people who "only" experience mild levels of stress. The Court is of the opinion that such confusion of perception, which is currently unavoidable in society, must begin to be addressed to prevent inappropriate treatment of people with mental

disorders and/or memory disorders. Court decisions have an important position to help clear up various confusions that tend to lead to stigmatization and inappropriate treatment of people with mental disorders and/or memory disorders.

B. Fulfillment of the Voting Rights of Persons with Disabilities after the Constitutional Court's Decision

The Reality of Fulfilling the Voting Rights of Persons with Disabilities in Bali and DIY in the 2019 Election

In 2014, researchers conducted research and monitored the implementation of general elections and found several important notes, namely, *first*, in the field it was found that the condition of the Voting Organizing Group (KPPS) was insensitive and had an impact on inappropriate treatment of voters with disabilities. This can be seen from the design of the election venues which are inaccessible and the officers who cannot interact properly. *Second*, the form containing the voter's accompanying statement is ignored. KPPS officers only assist in voting for blind people so that their right to vote is free and secret. *Third*, Some voters with disabilities had to crawl to the TPS location because the polling booths had stairs, were slippery, and there were ditches without bridges. *Fourth*, Confidential elections are also not guaranteed because the locations of the TPS where the voting booths are close to each other, the design of the voting booths is without a partition, the TPS are located in narrow residential alleys, and the voting table in the voting booth is not sturdy, even though certain voters with disabilities need a pedestal. In addition, the design of the ballot box is too high and cannot be reached by voters with physical disabilities. *Fifth*, in the election location for the disabled, many are cornered because they often become a spectacle. Apart from that, according to Feri Amsari in the context of this election, there is still neglect of the political rights of persons with disabilities found in the field, including: (a). The right to be registered to vote; (b). The right of access to TPS; (c). The right to a secret ballot; (d) The right to be elected to the Legislature; (e). Right to information including information about elections; and (f). The right to participate as executors in elections (Amsari, Voting Rights of Groups of Persons with Disabilities in the 2019 General Elections in West Sumatra, 2020).

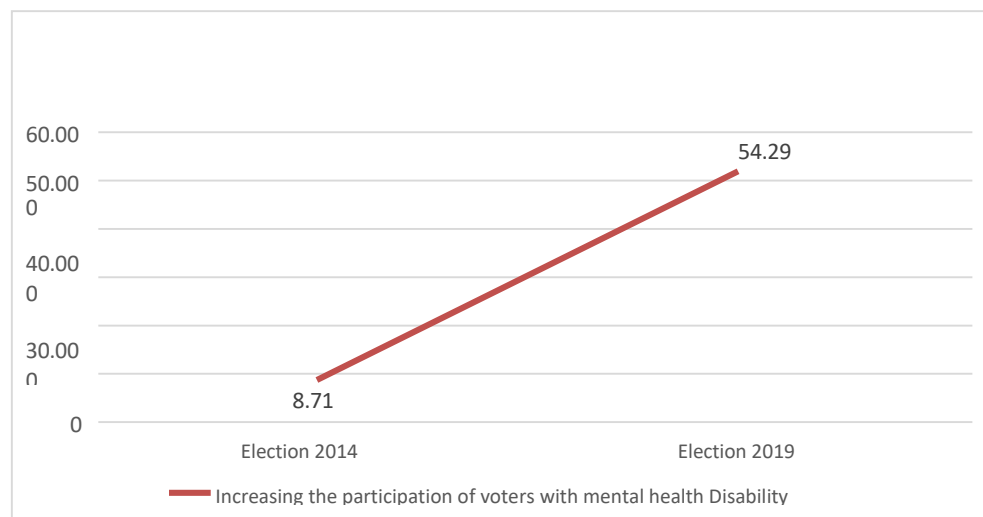
Based on the findings *The Asia Fondation*, 35% more para persons with disabilities do not have access to elections or do not understand elections, meaning that 35% of persons with disabilities who have voting rights are unable to exercise their voting rights in the 2014 elections (Opinion, 2022). This problem becomes more complex when it is suspected that the role of election organizers is still unable to provide accessible services in elections for persons with disabilities, for example when the central KPU or the regional KPU do not provide *Template Braille* or ballots for blind voters in the 2014 Legislative Election. This condition shows that the participation of persons with disabilities is still very low (Manah, 2022).

Rosenberg in Maran (Dumilah Ayuningtyas, 2018) suggests 3 (three) reasons why people do not want to participate in political life, namely: first, there is fear of the negative consequences of political activity. Here people think that political activation is a threat to their lives. Second, there is an assumption that participating in political life is a waste. Here people feel that their political participation is useless and will not affect the political process. Third, there is no incentive to participate in political life. In the election context, empowering and increasing the participation of disabled voters is important. In general, the rights possessed by

persons with disabilities in elections include: (i) the right to obtain information about elections; (ii) the right to be registered to vote; and (iii) the right of access to polling stations (TPS).

Constitutional Court Decision Number 135/PUU-XIII/2015 states that the requirement "not having a mental/memory disorder" to be registered as a voter in Law Number 8 of 2015 is unconstitutional. This decision opens a new perspective on protecting the right to vote for persons with mental disabilities and recognizes that mental/memory disorders are not the same from one person to another. The decision of the Constitutional Court is in accordance with the development of thinking about the legal capacity of persons with disabilities by approach *continuum*, namely recognizing that everyone is a legal subject, but in practice it is still necessary to look at the person's ability to exercise their rights, especially in making decisions. The Constitutional Court's decision has been implemented in various regulations related to elections, which cannot be separated from the efforts of organizations of persons with disabilities to implement it.

The year 2015 as an initial milestone in allowing people with mental/memory disorders with the criteria of not experiencing mental disorders and/or permanent memory disorders which, according to mental health professionals, has eliminated a person's ability to vote in elections is a decision capable of influencing people's participation in voting. Thus, the number of people with mental disabilities who are involved in general elections began to emerge and continues to increase. Moreover, after the Constitutional Court Decision Number 135/PUU-XIII/2015, the increase has become very sharp compared to the previous election. The table below shows this significant increase.



Source: KPU of the Republic of Indonesia

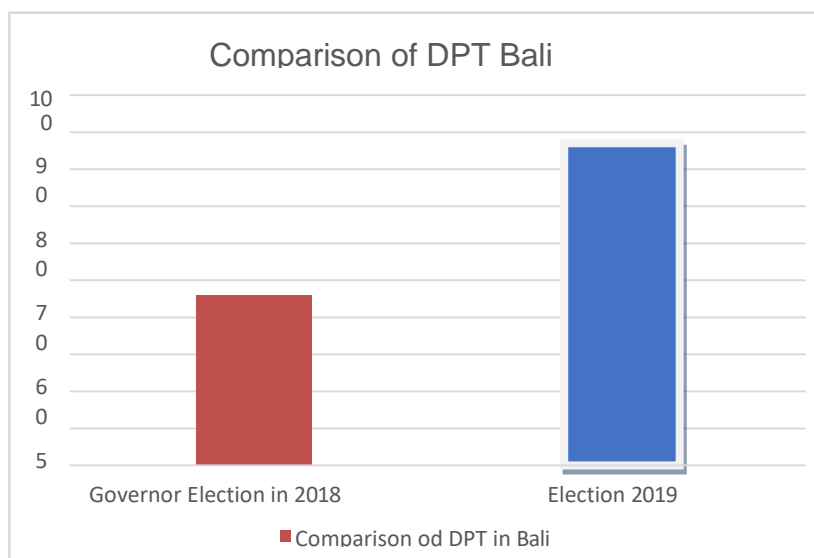
Empirically, from the table above, in Indonesia the election event, which is held every five years brings significant changes, especially after the issuance of the Constitutional Court Decision Number 135/PUU-XIII/2015 regarding political rights, namely the right to vote for people with mental disabilities. In the 2019 elections which were held on April 17, 2019, the total number of voters with mental disabilities who entered the DPT was 54,295 voters. This number includes 0.028 percent of the total DPT, namely 190,770,329 voters. The number of voters with mental disabilities increased significantly from the 2014 Election, which totaled 8,717 people to 54,295 people.

The increase in voter turnout in the 2019 elections indicates that citizens' political awareness is increasing about their rights and obligations, apart from the existence of an award given to vulnerable groups such as people with disabilities in general and mental disabilities. So that groups of people with disabilities, whether physical, mental, intellectual and/or sensory disabilities do not feel discriminated against, instead should be proud because their political rights are well accommodated by the state through the government.

This has also proven that the existence of the Constitutional Court Decision Number 135/PUU-XIII/2015 which was issued in 2015 has been able to become a legal reference for election organizers regarding the right to vote for people with mental disabilities which increased from the 2014 election to the 2019 election. Correlation There is a positive relationship between the decision of the Constitutional Court Number 135/PUU-XIII/2015 and the increase in the number of voters with mental disabilities due to several things:

1. There is no longer any doubt for election organizers, from the center to the Voting Committee (PPS), in giving space to persons with mental and mental disabilities in voting.
2. There is a legal basis for organizers to make legal products and policies in the holding of elections by differentiating between mental disabilities and mental disorders and/or relatively permanent or chronic memory disorders; and mental disorders and/or memory disturbances that are temporary, not permanent, or episodic.
3. Increased concern for the community, which will invite relatives with non-permanent mental disabilities to vote.
4. Increase the activity of mental hospital staff in providing services to mental disabilities to exercise their voting rights.

The results of field research in the Province of Bali also show that there has been an increase in the number of DPT in the Province of Bali involving vulnerable groups, namely people with mental disabilities in the Province of Bali when compared to the 2018 Bali Governor Election and the 2019 Election. In 2018 there were only 45 voters with disabilities mentally, then in 2019 it increased to 86 people with mental disabilities. The following describes comparative DPT data consisting of people with mental disabilities in the Province of Bali:



Based on the data graph above, there has been a significant increase within one year from the 2018 Bali Governor Election to the 2019 Election which has shown that the Constitutional Court's decision has become a legal mecca in providing fulfillment of people's political rights. with mental disabilities in the Province of Bali. However, unfortunately, there is no sufficiently complete data at the KPU for the Province of Bali regarding what obstacles are faced and what types of mental disabilities are experienced by voters.

Meanwhile for the Yogyakarta region, there is no clear data regarding the total number of persons with mental disabilities in the general election. The DIY Provincial KPU does not have exact data on the number of people with mental disabilities in the 2019 election. This condition is an important note because data is the initial requirement to fulfill the political rights need of persons with disabilities (Interview with KPU DIY, 2022).

The data that the authors obtained shows that there is a significant number of voters with disabilities. During the 2019 election, for example, the total number of voters with disabilities reached 4,550 out of a total of 11,445 people with disabilities. See table below:

REGISTERED			SUFFRAGE		
Man	Woman	Amount	Man	Woman	Amount
5.987	5.458	11.445	2.436	2.114	4.550

It's quite unfortunate, there is a very unequal power between the number of registered persons with disabilities and the number of persons with disabilities who have the right to vote. A more significant figure is in Gunung Kidul Regency, where the number of persons with disabilities reached 2,980, of which 2,663 people were registered, while only 617 people had the right to vote. It can be seen in the table below (Suwardi, 2020).

Overall Number of Persons with Disabilities

Dis. Physical	Dis. Intellectual	Dis. Mental	Dis. Sensory	Amount
1.357	141	697	785	2.980

Number of Persons with Disabilities Who Have the Right to Vote

REGISTERED			SUFFRAGE		
Man	Woman	Amount	Man	Woman	Amount
1.232	1.431	2.663	345	272	617

There are several records of the increase in the number of voters with mental disabilities, both in the Province of the Special Region of Yogyakarta and the Province of Bali:

First, After the Ruling of the Constitutional Court of the Republic of Indonesia Number 135/PUU-XIII/2015, which stated Article 57 paragraph (3) letter a of Law Number 8 of 2015 concerning Amendments to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Laws Number 1 of 2014 concerning the Election of Governors, Regents and Mayors to Become Laws is contrary to the 1945 Constitution of the Republic of Indonesia, as long as the phrase "*impaired mental / memory*" is not construed as "*suffer from a mental disorder and/or permanent memory disorder which, according to a mental health professional, has diminished one's ability to vote in general elections*", the number of people with mental disabilities who get their right to vote is increasing. This increase occurred in Bali and DIY, which can be said to illustrate the national scheme for the participation of persons with disabilities in elections.

Second, with the issuance of the Constitutional Court decision No. 135/PUU-XIII/2015, the KPU's framework has become clearer and stronger. The KPU then issued various regulations that could support this policy, including cooperating with Mental Hospitals to conduct assessments of persons with mental disabilities. This has an impact on data collection for persons with mental disabilities to become more massive, so that more citizens can have their right to vote protected to enter the Final Voter List (DPT).

Third, for people with mental disabilities themselves, both those who are in a mental hospital and outside a mental hospital, they have the courage to actively register themselves to become the Permanent Voter List (DPT). Previously, they felt embarrassed if they had to admit that they were mentally disabled, because the stigma of the country and society before was still bad.

Fourth, for the community, this is a momentum to change the paradigm and break the negative stigma of persons with mental disabilities. Whereas, even if a person has a mental disability, at certain times and situations he also acts and thinks like a non-disabled person.

C. Barriers to Fulfilling the Voting Rights of Persons with Disabilities in the 2019 Election

The positive impact of the Constitutional Court Decision 135 on changing the perspective of policy makers in viewing the right to vote for persons with mental disabilities has not yet

been followed by its implementation in the field. According to KPU RI member, I Dewa Kade Wiarso Raka Sandi, the policy of including people with mental disabilities in the voter list is also being questioned by many community groups, even to the point where there are accusations of partisanship from the Election/Pilkada organizers, especially if the vote count results are slightly different. Nurul Amalia, East Java KPU member, agreed with this, but said that the criticism or accusation could never be proven and in its implementation, the vote counting was always attended by witnesses from each Election/Pilkada contestant (Syamsi, *Protection of the Voting Rights of Persons with Mental Disabilities in the Post-Constitutional Court Verdict Process Series Approach*, 2020). This shows that the community itself still does not have adequate knowledge regarding persons with mental disabilities. The same thing still happens to election organizers, there is no common understanding by officers regarding services for persons with mental disabilities. Mental disabilities are often considered by some people to be someone who has a psychiatric disorder (crazy) (Budiyanto, 2022).

This condition shows that the negative stigma against persons with mental disabilities is still the basis for criticizing the policy of including persons with mental disabilities as voters. In addition to this, another problem that occurs in fulfilling the right to vote for persons with mental disabilities is that it has not been recorded in the population administration, or the difference between the location of residence and the domicile of the KTP concerned. This condition is often found in mental hospitals or institutions that accommodate people with mental disabilities. Technically, this problem can be solved by contacting the KPUD and the local population and civil registry office, but due to the condition of people with mental disabilities who are often isolated in mental hospitals or nursing homes, it is difficult to do so. (Budiyanto, 2022).

On the other hand, hospital and nursing home staff did not provide support in dealing with this. Another problem is the reluctance of family, relatives, or the surrounding community to protect the right to vote for persons with mental disabilities. Nur Kholis Madjid, a member of the South Kalimantan Bawaslu, said that there were attempts by the family to hide family members who are mentally disabled. (Budiyanto, 2022). The same thing also happened in DIY, recording and registration by DIY KPU officials is hampered because families who have members with mental disabilities are not open. Families in this case often cover up if there are family members with mental disabilities, so this condition becomes an obstacle in tracing the number of people with mental disabilities who will exercise their right to vote. Meanwhile, recording and registration are the first steps taken by the DIY KPU to be able to find out the need for proper accommodation for persons with mental disabilities when they are about to exercise their right to vote (Budiyanto, 2022).

Shame and worry about uncontrolled actions are the main reasons for the family. In addition, people with mental disabilities are often not registered and then do not exercise their right of choice because they are isolated in mental hospitals or nursing homes. This condition is carried out usually based on the decision of the orphanage staff, or a letter of examination results from a doctor or psychiatrist, but it is not carried out optimally and one person at a time. (Budiyanto, 2022). This is a serious problem of fulfilling the rights of persons with mental disabilities. Sometimes, just because the family, community, or government don't want to be bothered, a person with a mental disability is immediately placed in a mental hospital. In fact, by being there, he will become more depressed, and his mental disorders will become more

severe. In addition, our society's perception of hospitals is still very negative. The policy of isolating persons with mental disabilities in mental hospitals or nursing homes is based on the understanding that a person with a mental disability does not have legal capacity. In this approach, the status or label of a person with a mental disability becomes the basis for other people to take over decision-making for him or herself, otherwise known as *substitute decision making*. Even though Articles 436-446 of the Civil Code state that a person is in custody is the result of a court decision that is individual, for a specific purpose, and with clear procedural law (Susanti, 2016). Therefore, the status of amnesty or even loss of legal capacity cannot be carried out haphazardly and unilaterally.

Another problem encountered in the field was the unavailability of adequate facilities and infrastructure at the time of voting. People with mental disabilities often have disturbances in the environmental conditions around them and this will affect their concentration. The voting booths currently available seem very cramped and cramped, so it has the potential to have an impact on the enthusiasm of the public to attend. Not to mention, from the aspect of accessibility, voting which is usually carried out in village buildings or school buildings, does not yet provide accessible infrastructure so that it can be easily reached. This shows that even though the regulatory aspects have been sufficiently fulfilled, the socialization has not been good enough so that many people in the field do not understand (Budiyanto, 2022).

CONCLUSION

Based on the brief description above, the conclusions that can be drawn from this paper are:

First, people with mental disabilities or who in the language of society are known as people with mental disorders, are not the same as crazy people (*psychosis*). There are many types of people with mental disabilities, including: *schizophrenia*, bipolar, depression, *anxiety* (extreme anxiety), and personality disorders. People with mental disabilities are still able to behave and make their own decisions. However, normatively assessing a person with moderate mental disabilities can make his own decisions or not, requires the help of medical personnel or a psychologist. Even though this conception itself is not single, there is much debate regarding the role of medical personnel in determining the legal skills of persons with mental disabilities.

Second, based on national and local data in the province of Bali and the province of the Special Region of Yogyakarta, the implementation of the Constitutional Court Decision Number 135/PUU-XIII/2015 from the aspect of participation of persons with disabilities has been quite good. This means that there is a significant increase compared to the previous elections. It's just that, there are still several obstacles in implementing the Constitutional Court's decision, including: the election organizers are not fully aware of the paradigm in interpreting persons with mental disabilities. Some of the actors that the writer met still use this approach *charity* or feel sorry for people with mental disabilities, not a social approach that empowers equal interaction. Apart from that, there is also the problem of inadequate facilities and infrastructure in the voting process, for example at the voting location it should be created to be more attractive and open, so that people with mental disabilities don't feel pressured. Another obstacle is the approach that always connects people with mental disabilities to mental hospitals (RSJ). Both the government and election administrators, when they hear the term

persons with disabilities, almost always connote it with RSJ, whereas once again, persons with mental disabilities have many types and challenges. In fact, if they get good treatment and the best medicine, they are no different from those without mental disabilities.

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