

# DEVELOPMENT OF REGULATIONS ON VOTING RIGHTS PEOPLE WITH MENTAL DISORDERS POST-CONSTITUTIONAL COURT RULING APPLIED

*Tanti Oktari*

Faculty of Law, University of Indonesia, Jakarta, Indonesia  
tanti.oktari@ui.ac.id

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## Abstract

This research only focuses on the regulation of the right to vote in general elections, whether at the national or regional level, for people with mental disorders. The general paradigm is very varied regarding the mental condition of people with mental disorders. There is a crucial ambiguity regarding the intellectual capacity of people with mental disorders. The effect of the debate concerns granting them the right to vote as a constitutional right. This research aims to explore further the legal politics of regulating the right to vote for people with mental disorders in Indonesia. The research method used is normative legal research with a statutory and comparative approach. The results of this research show that people with mental disorders are subjects who are excluded from being granted the right to vote. This is confirmed in Article 57 paragraph (3) letter a of Law Number 8 of 2015. The meaning of this provision has shifted after Constitutional Court Decision Number 135/PUU-XIII/2015. Restrictions are granted only in cases of mental disorders and/or permanent memory according to mental health professionals who have lost the ability to choose. The ratio decidendi which is the argument is that the condition of people with mental and/or memory disorders is not permanent enough to eliminate their intellectual capacity to choose. As a result, people with mental disorders can participate in voting in national or regional elections as long as they are not declared by mental health professionals to be incompetent to vote.

**Keywords:** Voting Rights, People with Mental Disorders, Constitutional Court Decision

## INTRODUCTION

Democracy is an understanding or thought regarding a state or government system that is most popular today. This is based on research which says that there are still many who support the existence of a democratic system, even though there are other studies which say that democracy has a bleak future. Behind the fact of the popularity of the democratic system, basically there is no definite and concrete definition of the concept of democracy. Hal This is because democracy has various theories, concepts or models that can explain democracy, some of which are interrelated so that they complement each other and some of which contradict each other.(Campbell, 2008). This can happen because we also remember the fact that the concept of democracy is a concept that has existed since ancient Greece and has continued to be debated and discussed until modern times in the 21st century. The existence of the concept of democracy that has existed for a long time means that democracy has different meanings for different people, at different times and places.(Dahl, 2001).

Democracy among ordinary people is better known by Abraham Lincoln's famous statement at Gettysburg in 1863, government of the people, by the people, for the people. Democracy, according to Jimly Asshiddiqie, means a government that is based on the people governing themselves, either directly or indirectly, so that those who govern and those who are governed are identical, that is, they are both people.(Asshiddiqie, 2006). Democracy, by looking at the two opinions previously mentioned above, can be interpreted as having an important element in the form of the people. This also shows that the government and state exist because there are people in them.

Democracy has an important element in the form of the people and this can be seen from various other opinions. One example of the importance of the people's element can be seen from Luis Villoro's opinion. Villoro believes that democracy can be interpreted as two things, namely as a political ideology and a system of government. Democracy as a political ideology can be interpreted as "People's Power" or "Power of the People"(Union, 1998). Democracy as "People's Power" is interpreted as a unity of the people who comprehensively control all decisions and carry them out collectively and together. In this understanding, it is interpreted that there is no domination and subordination within the unity of the people. Democracy is considered as an achievement of freedom for every human being.

Meanwhile, democracy as a "Government System" is interpreted as a collection of rules and institutions that support a system of power. The concepts included in democracy as a "Government System" are equality before the law, civil rights, citizen election of their leaders, the principle of majority legitimacy. in decision making (the principle of needing a majority to take decision), and the division of power (the separation of powers)(Union, 1998).

The concepts above are not yet complete or static and cannot be seen as something concrete and rigid, but these concepts must be seen as ongoing and dynamic as well as flexible and able to adapt to situations, conditions and conditions.

It can be seen that people's participation and participation is important. People in democratic countries are expected to participate actively in all matters relating to government. This is also what makes democracy closely related, even considered complementary, to the concept of popular sovereignty in Indonesia(Manan, 1996). The concept of popular sovereignty itself is a concept which states that the highest source of power to self-regulate a country comes from its own people(Amir & Purnomosari, 2005). Furthermore, this gives rise to the opinion that the right to vote, as a form of people's participation in government, is important. The right to vote is said to be the main characteristic or nature of democracy(Beckman, 2009).The right to vote is important to elect representatives who make, amend and delete laws and regulations. Without the right to vote, there is no form of massive and comprehensive transfer of power or legitimacy from the people to the state and government. The importance of the right to vote even makes this right recognized as a "Right of Rights" because it allows you to participate in state or government decisions that may affect other rights you have.(Beckman, 2009).

The existence of democracy and popular sovereignty is in turn closely related to the concept of human rights or human rights. Historically, human rights emerged and developed as a result of the conditions and circumstances of society at that time(Arinanto, 2018). In the early days, the concept of human rights appeared to focus more on civil and political rights, such as the right to religion, the right to property, and the right to a fair trial.

Subsequently, human rights developed rapidly as a form of struggle and resistance against authorities or other groups to uphold truth and justice. It should be remembered that rulers in the era before human rights had arbitrary power. The arbitrariness of those in power has led to the emergence of legal documents that limit their authority and this also indirectly gives rise to human rights(Widiartati, 2010).

In England, this resistance gave birth to the Magna Carta in 1215, the Petition of Rights in 1628, the Bill of Rights in 1689, and other instruments that limited the English government and state in acting against its people.(Widiartati, 2010). Furthermore, these instruments are the forerunners of the concept of human rights. Subsequently, quite large and massive resistance emerged in two places which resulted in two global revolutions, namely the United States and France. The results of the two revolutions in both places resulted in the Declaration of Independence in the United States in 1776 and *Déclaration des Droits de l'Homme et du Citoyen* France in 1789, both of which are also closely related to the concept of human rights(Widiartati, 2010). Furthermore, the peak of the struggle for human rights occurred when the Universal Declaration of Human Rights was issued in 1948. The right to vote is quite related to these two concepts, namely democracy and human rights.(Landman, 2018). This is because the right to vote is part of political rights, namely rights that are recognized and protected in the concept of human rights. The right to vote as a political right also influences representation in state or government institutions. In the period before the Universal Declaration of Human Rights was issued, it could be said that regulating the right to vote was the authority of each country. This goes back to the concept of legal rights. Legal rights are interests recognized and protected by law(Singh & Badgaiyan, 2015).

Legal rights are rights guaranteed by law and statutory regulations under it, or rights arising from regulations outside the Constitution. However, the importance of the right to vote is recognized worldwide, this is by looking at the world's first wave of democracy which occurred from the 1820s to 1926 which expanded the right to vote.(Diamond, 1996). After the emergence of the Universal Declaration of Human Rights in 1948, there was only an international guarantee of the right to vote for every human being(Nations, n.d.).

Indonesia as an independent country with its constitution, the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), has included regulations relating to these concepts. Matters related to democracy and popular sovereignty can be seen clearly in the clause in the 1945 Constitution of the Republic of Indonesia, which reads "Sovereignty is in the hands of the people and is implemented according to the Constitution." The existence of human rights can be seen in many articles, such as article 28A paragraph (1) to article 28J paragraph (2) and article 29 paragraph (2) of the 1945 NRI Constitution. The existence of these concepts in the Indonesian constitution makes the 1945 NRI Constitution a constitution. which is quite ideal. The 1945 Constitution of the Republic of Indonesia gives more appreciation to these concepts in daily practice in the activities of every human being both inside and outside the government and state in Indonesia. The existence of articles relating to human rights even makes the existence of human rights even more directly protected and guaranteed by the constitution. The human rights articles in this constitution are often known as Constitutional Rights.

The existence of Constitutional Rights as a direct form of protection and guarantee by the constitution has the implication that the rights in question can be submitted for review to the Constitutional Court (MK). This, once again, provides more protection and guarantee than other rights, namely legal rights, which are not included in constitutional rights. Furthermore, the Constitutional rights guaranteed and protected by the 1945 Constitution of the Republic of Indonesia are the right to obtain equal opportunities in government. In other articles, there is no clause that clearly mentions the right to vote. In other words, the 1945 Constitution of the Republic of Indonesia does not provide enough protection and guarantee for the right to vote. This is certainly a problem for Indonesian state practice which claims to be a democratic country, namely considering the explicit statement in the 1945 Constitution of the Republic of Indonesia which states that sovereignty is in the hands of the people, but does not provide clear protection of the right to vote. This is what made the Constitutional Court issue considerations in Decision Number 011-017/PUU-I/2003 and then reaffirmed through Decision Number 102/PUU-VII/2009, that the right to vote is a constitutional right. The right to vote as a constitutional right, even though it is not included in the 1945 Constitution of the Republic of Indonesia, is based on article 27 paragraph (1), article 28C paragraph (2), article 28D paragraphs (1) and (3), and article 28I paragraph (2).

Furthermore, the Constitutional Court through Constitutional Court (MK) Decision Number 135/PUU-XIII/2015 brings a new perspective in protecting the voting rights of people with mental disabilities in Indonesia. This decision recognizes that the condition of mental/memory disturbance cannot be the same between one person and another, so it cannot be a condition for registering a person as a voter in the General Election (Pemilu) and Regional Head Election (Pilkada). The MK 135 decision plays a major role in the state's efforts to recognize the legal capacity of people with mental disabilities, while protecting their voting rights.

Constitutional Court Decision Number 135/PUU-XIII/2015 brings progress towards efforts to protect the voting rights of people with disabilities. By stating that the requirement of "not having

mental/memory problems" to be registered as a voter in the Pilkada is unconstitutional, the Constitutional Court also indirectly recognizes that people with mental disabilities have legal standing as holders of voting rights, so they must be able to be recorded on the voter list. Apart from legal standing, Decision Number 135/PUU-XIII/2015 also assesses legal capacity from the aspect of legal agency, namely the ability of voters to exercise their voting rights.(Nursyamsi & Ramadhan, 2020).

## RESEARCH METHOD

In this writing, a statutory approach and a comparative approach will be used. The legislative approach is an approach carried out by analyzing rules and regulations relating to related legal issues(Mahmud, 2016).A statutory approach is taken to examine the provisions governingThe true essence of the concept of regulating the right to vote for people with mental disorders according to the provisions of Indonesian law and Constitutional Court Decision Number 135/PUU-XIII/2015. Meanwhile, the comparative approach examines the regulation and application of law in various countries, in this research the countries compared are Indonesia with the United States, Australia, Malaysia and Singapore.

The type of research carried out for this writing is normative legal research, namely research carried out by examining the laws and regulations that apply or are applied to a related legal problem.concept of regulating voting rights for people with mental disorders. Normative research is often referred to as doctrinal research, namely research whose object of study is legal and regulatory documents and library materials.(Soerjono Soekanto and Sri Mamudji, 2007).

## RESULTS AND DISCUSSION

Padmo Wahjono, who said that democracy has a universal meaning, but not materially or in content, the democracy of one nation is different from the democracy of another nation, where this is due to differences in the historical background and outlook on life of a nation(Wahyono, 1991). Meanwhile, Kekic wrote that diversity in understanding democracy also occurs in the political sphere, which can be seen from the United States, a country that actively promotes democracy but there is no internal consensus regarding the elements of democracy.(Kekic, 2007).

Furthermore, the diversity of democracy produces many variants of democracy. The classic classification of democratic variants is direct and indirect democracy. Direct democracy is the union of supreme sovereignty with legislative sovereignty, that is, the people act directly in state practice. Meanwhile, indirect democracy is democracy that is carried out or carried out by the people's representatives, whether in the legislature or executive. In this case, high solidarity is needed which makes a few people, namely the people's representatives, act for the many people, namely the people as a whole, because they are trusted by the many people and can also be controlled by the many people.(Kekic, 2007).

Constitutional Rights, Human Rights that are protected and guaranteed directly by the constitution. More clearly, Constitutional Rights in Indonesia are the rights regulated in Indonesia's Constitution, namely the 1945 NRI Constitution. Based on this understanding, the rights contained in the 1945 NRI Constitution, namely those contained in article 28A paragraph ( 1) up to article 28J paragraph (2) and article 29 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, are Constitutional Rights.Article 28A paragraph (1) to article 28J paragraph (2) are articles guaranteeing human rights in the constitution considering that they are included in Chapter

Meanwhile, article 29 paragraph (2) is considered the only article that meets the requirements to be called a human rights article even though it comes from the original text of the 1945 Constitution. Other articles in the 1945 Constitution of the Republic of Indonesia which relate to rights, namely article 27 paragraphs (1) and ( 2), article 28, article 30 paragraph (1), article 31 paragraph (1), and article 32 paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia, are considered not to be provisions regarding human rights guarantees in the true sense, but only relate to understanding of citizens' rights.

The right to vote, according to Kansil, is the right of citizens to take part in general elections. Voting rights are divided into two types, namely active suffrage and passive suffrage(Kansil, 1974). Furthermore, passive suffrage is the right to be elected as members of a People's Consultative/Representative Body in a general election, in other words passive suffrage is the right to be elected. Meanwhile, active suffrage is the right of citizens to choose their representatives in a general election, or in other words, the right to vote.

In an indirect democracy, where the formation of the state's will goes through the parliamentary election stage and the stage of making the state's will (laws or general policies) by the parliament alone or together with the head of state, the main political right is the right to vote, namely the right of citizens

to participate. in general elections or the right to vote or the right to vote. Political rights are the right to participate in lawmaking. The right to vote remains a political right, the difference is that the right to vote is an indirect right of participation. Voters only participate in the process of forming law-making organs(Kansil, 1974).

In Indonesia, the right to vote is recognized as an important right after going through a development. This refers to the Constitutional Court Decision Number 011-017/PUU-I/2003, which has raised the level of the right to vote in Indonesia. Indonesia, before the decision was issued, recognized that the right to vote was only limited to a statutory right, because it was only stated in the law. This refers to article 43 paragraph (1) of Law Number 39 of 1999 concerning Human Rights. It was only after the Constitutional Court's decision in question came out that this raised the right to vote to a constitutional right, more precisely a derivative constitutional right.(Ferricha, 2021).

This increase in the degree of the right to vote means that the right to vote can be used as a touchstone in testing statutory regulations before the Constitutional Court. This makes protecting the right to vote an important matter because it is protected at the constitutional level.

In the United States, for every state that anyone with a disability can register to vote in the current 2020 presidential election. Additionally, another good practice is to offer support services to people with disabilities, including people with mental disabilities, if they need special support to exercise their right to vote. All services are published through easily accessible websites in North Carolina, Alabama and Washington(Nursyamsi & Ramadhan, 2020).

Meanwhile in Australia, assistance services are also available for elections held in 2021. Companions who provide information related to elections or other needs to support the exercise of voting rights can come from election organizers or other candidates chosen by people with disabilities, for example providing convenience services(Nursyamsi & Ramadhan, 2020).

In Malaysia, the Election Act 1958 in Article 29 regulates participation in political and public life, in the form of full rights to elect candidates for people's representatives safely and confidentially in accordance with the aspirations of people with disabilities. However, the 1958 Election Act has not touched the rights of people with disabilities to be elected as people's representatives.

In Singapore, protection regarding political rights for people with mental disorders is regulated in the Mental Capacity Act 2008. Article 28 prohibits companions from making decisions on behalf of people with mental disorders when casting political votes in general elections and national referendums. However, people with mental disorders in choosing representative candidates in general elections cannot avoid the assistance of general election officials. However, accompanying general election officials are obliged to keep secret what people with mental disorders have chosen.

### **The concept of regulating the right to vote for people with mental disorders before the Constitutional Court Decision Number 135/PUU-XIII/2015**

The publication of Constitutional Court Decision No. 135/PUU-XIII/2015 began with a lawsuit from several NGOs and the public regarding the constitutional rights of People with Mental Disorders (ODGJ), related to Law Number 1 of 2015, which was ratified through a proposal from the DPR. The results of the revision above resulted in the provision in Article 57 paragraph (3) letter a that one of the requirements for an Indonesian citizen who can be registered as a voter is a person who is "not mentally/memory disturbed". This provision has the potential to eliminate a citizen's right to be registered as a voter and cast his vote in the regional elections. This provision does not explain in detail what the clear qualifications are for someone who is said to be "mentally/memory disturbed". Therefore, the provisions in this article have prevented the state from treating all its citizens equally in state administration activities.

Apart from that, the provisions in Article 57 paragraph (3) letter a along the phrase "not having mental/memory problems" have also eliminated the guarantees, protection and certainty of fair law for every citizen before the law which should be fulfilled by the state.

In the provisions of Law Number 8 of 2012 concerning the General Election of Members of the DPR, DPD, Provincial DPRD and District/City DPRD, there is absolutely no prerequisite for a citizen to be registered as a voter "not having mental/memory problems." ". Likewise in Law Number 42 of 2008 concerning the Election of the President and Vice President. In fact, when the 2014 General Election was held, the General Election Commission (KPU) tried to create polling places (TPS) in several mental hospitals (RSJ) in several areas. On that basis, testing the constitutionality of the provisions in Article 57 paragraph (3) letter a is very important to preserve the right to vote for every citizen to remain registered and be able to vote in future regional elections.

The provisions of article 57 paragraph (3) letter a as a voter are "a person whose soul/memory is not disturbed", this means that this word is interpreted as broad or universal among the wider community, from this word it can lead to the loss of some of the constitutional rights of citizens people

with mild mental disorders or in the recovery stage. This article also has the potential to cause discrimination for some sufferers of mild mental disorders because it is considered to eliminate the right to vote among ordinary people. 69 Researchers relate this to the theory of legal validity of the Constitutional Court decision Number 135/PUU-XIII/2015.

From a juridical perspective, the decision is in accordance with the 1945 Constitution as contained in articles 27 and 28 concerning Human Rights. Apart from that, from a sociological perspective, the decision can be accepted by the public even though some people do not understand the meaning of the decision. The public considers that people with mental disorders can vote in the general election, people with mental disorders wandering on the streets can vote, even though in the Constitutional Court decision No. . 135/PUU-XIII/2015(Constitutional Court & University of Jember, 2019).

As long as the phrase mental/memory disorder is not interpreted in its entirety, people with mild mental disorders and who are deemed to meet the requirements according to a psychiatrist are allowed to choose. In its philosophical review, the decision is in accordance with legal ideals as values adopted in social life in society with an orientation towards peace and justice, because the decision prioritizes aspects of justice or equal rights between ordinary people and people with temporary mental disorders or what are called mental disability.

Indonesia has basically ratified the UN Convention on the Rights of Disabled People through Law Number 19 of 2011. Article 29 of this convention requires the State to ensure that people with disabilities can effectively and fully participate in political and public life on an equal basis with other people, including by guaranteeing the right to vote. Article 29 does not envisage any justifiable restrictions, nor does it allow for exceptions for certain groups of persons with disabilities. Therefore, exclusion of the right to vote on the basis of mental disability (mental disorder), whether alleged or actual, including restrictions based on individual assessment, constitutes discrimination on the basis of disability

From the applicant's argument, he uses several articles to explain the problem, such as Article 433 of the Civil Code, which states that people with mental/mental disorders are included in the guardianship of either permanent mental disorders or permanent mental disorders, Article 442 states that the process of appointment as guardian is in the District Court based on the prosecutor's conclusion. Article 446, if the decision is made by a District Court judge, then the appointment as guardian is valid and the time will count from the time the decision is issued. Several of these articles explain that people with mental disorders cannot be deprived of their rights (the right to make political choices) in their entirety, there are several procedures for determining someone who is considered incompetent.

Article 57 paragraph (3) letter a requires that voters in the General Election "not be mentally/memory impaired". This article states that people with mental disorders cannot vote in the General Election without going through a process in the District Court, this is contrary to the Civil Code Articles 436, 437, 438, 440 and 442.

### **Implications of the Constitutional Court Decision Number 135/PUU-XIII/2015 regarding the regulation of the right to vote for people with mental disorders**

Constitutional Court Decision Number 135/PUU-XIII/2015 granted the applicant's request based on arguments that did not fully look at normative aspects, but were more strongly based on sociological aspects. The Constitutional Court Judges did not just look at the provisions in the Articles in Law no. 8 of 2015, but looks more closely at and considers the conditions of society in seeing people with mental disabilities as citizens. The Constitutional Court's decision considers the position of court decisions as an intermediary to correct perceptions that are considered wrong in society.

In Decision Number 135/PUU-XIII/2015, the Constitutional Court stated that Article 57 paragraph (3) letter a only regulates administrative aspects in the implementation of regional elections. This article does not interfere with citizens' right to vote, especially citizens who suffer from mental or memory disorders. This is based on the argument that in understanding Article 57 paragraph (3) letter a of Law no. 8 of 2015, it is also necessary to pay attention to other paragraphs in Article 57, especially paragraph (4).

Article 57 paragraph (4) regulates, "Indonesian citizens who are not registered on the Voter's list and at the time of voting do not meet the requirements as intended in paragraph (2) or paragraph (3), the person concerned cannot exercise their right to vote." This provision was interpreted by the Constitutional Court to mean that prospective voters who do not meet the requirements in Article 57 paragraph (3) - either because they are mentally or mentally disturbed or because their right to vote has been revoked - can still take part in the general election based on the provisions in Article 57 paragraph (2).

If the Constitutional Court stops at that point—limited to looking at the construction of the articles in Law no. 8 of 2015, the Constitutional Court will reject the application in its decision. This means that the Constitutional Court may declare that the formulation of Article 57 paragraph (3) letter a does not conflict with the 1945 Constitution of the Republic of Indonesia. However, the Constitutional Court uses another point of view which is considered influential and needs to be straightened out. The Constitutional Court stated in Decision Number 135/PUU-XIII/2015 that currently there is a confused perception in society which thinks that mental disorders and/or memory disorders are imagined as a condition of "insanity, or what is medically referred to as permanent mental illness. In this way, the Constitutional Court intends to play a role through its decision in clearing up various confusions that tend to give rise to stigmatization and inappropriate treatment.

In this decision, the Constitutional Court believes that each type of mental or memory disorder is very diverse. Therefore, the use of a slash (/) in the phrase "mental/memory disorders" as stated in Article 57 paragraph (3) letter a is an error. It will give rise to the same legal consequences for different conditions. Apart from that, Article 57 paragraph (3) letter a of Law no. 8 of 2015 regulates restrictions on someone from doing something based on a condition, namely mental or memory disorders. In this way, the article should be equipped with provisions that regulate the mechanism for determining whether a person is or is not mentally or mentally disturbed. To determine this, a special profession is needed, which refers to Article 73 of Law no. 18 of 2014 concerning Mental Health and Article 150 of Law no. 36 of 2009 concerning Health, mental health examinations for legal purposes are carried out by psychiatric specialists in health service facilities. In the absence of a mechanism for determining this specific profession, the potential for injustice or discrimination against certain groups will be very large.

With these considerations, the Constitutional Court emphasized that the provisions in Article 57 paragraph (3) letter a of Law no. 8 of 2015 is contrary to the general election principles adopted in Article 22E paragraph (1) of the 1945 Constitution of the Republic of Indonesia, as well as contrary to the principle of legal recognition regulated in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. In this way, people with mental or memory disorders—who also include people with mental disabilities—cannot be said to be in a uniform and permanent condition. Therefore, there is not a single legal regulation, especially a law, that can reduce one's right to vote, either during voter registration or when exercising one's right to vote in a general election. (Nursyamsi & Ramadhan, 2020).

Constitutional Court Decision Number 135/PUU-XIII/2015 is a step forward in efforts to protect voting rights for people with disabilities. By stating that the requirement of "not having mental/memory problems" to be registered as voters in the Pilkada is unconstitutional, the Constitutional Court also indirectly recognizes that people with mental disabilities have legal standing as holders of voting rights, so they must be able to be recorded on the voters' list. Apart from legal standing, MK Decision 135 also assesses legal capacity from the aspect of legal agency, namely the ability of voters to exercise their voting rights.

In Legal Considerations, paragraph 3.17 of Constitutional Court Decision Number 135/PUU-XIII/2015, it is stated that, "Considering that before the law, especially in relation to the right to vote and the right to be registered on the electoral list, which assumes the ability to make choices, each category Mental disorders and/or memory disorders as described above should not be treated the same. ..."

Apart from that, in legal consideration 3.21 number 4, the Constitutional Court also stated that, "not all people who are experiencing mental disorders and/or memory problems will lose their ability to vote in general elections."

From these two legal considerations, it can be seen that the Constitutional Court agrees that each person has different abilities in making choices or making decisions, including people whose mental/memory problems are disturbed. This recognition of differences in abilities shows that the Constitutional Court does not adhere to an "All or Nothing" approach in viewing the legal capacity of persons with disabilities.

Decision Number 135/PUU-XIII/2015 was prepared based on a request for a material review of the articles governing voter registration in the regional elections. To be included in the Pilkada voter list, it is not yet necessary to consider whether the registered person has the ability to make decisions (legal agency) or not because there is still a time gap between voter registration and voting, which still allows for anything to happen, including healing for those previously considered unable to make decisions, or illness or accident that makes someone lose their ability to make decisions. So the presence of Constitutional Court Decision Number 135/PUU-XIII/2015 is an important contribution to the recognition of the right to vote for people with disabilities in the implementation of General Elections and Regional Head Elections, with the hope that in the future no one will question the participation of people with disabilities as voters in General Elections and Regional Head Elections.

In 2019 the Constitutional Court decision began to be implemented, where all mental disabilities who met the requirements were included in the permanent voter list (DPT). After the issuance of Constitutional Court Decision number 135/PUU-XIII/2015, it brought significant changes to general elections. In the 2019 general election which was held on April 17 2019. Mental disabilities included in the voter list remained 54,295 people. This number covers 0.028% of the total permanent voter list, namely 190,770,329 voters. The number of voters with mental disabilities increased quite drastically from the 2014 election, when there were 8,717 people to 54,295 people. This proves that the Constitutional Court Decision number 135/PUU-XIII/2015 issued in 2015 has been able to become a legal reference for holding elections regarding the voting rights of mental disabilities which have increased significantly. Constitutional Court Decision number 135/PUU-XIII/2015 has positive power in increasing the number of voters with mental disabilities.

## CONCLUSION

Indonesia is a rule of law country that supports democracy. Democracy is the people's party. In the implementation of democracy, all citizens participate in general elections, one of which is people with mental disabilities. Persons with disabilities must receive protection from the state. The form of state protection for people with mental disabilities is regulated in the Constitution of the Republic of Indonesia and is a law that protects people with mental disabilities. In addition, people with intellectual disabilities can exercise their political rights in general elections. This political right is given to people with mental disabilities to elect leaders and representatives of the people. The political rights of people with developmental disabilities are regulated in Law Number 7 concerning Election of DPR Members in 2017 and confirmed by Constitutional Court Decision Number 135/PUU-XIII/2015.

People with mental disorders in the phrase "disturbed by their soul or/ memory" are interpreted as people with complete mental disorders, even though not all people with mental disorders are permanent, therefore the author suggests that these words be replaced with "People in the period of mental recovery" which is interpreted as as a person with a mental disorder that is temporary or episodic (recurrence), so that this meaning is a distinction between a person with a permanent mental disorder and a person with a mental disorder that is temporary or recurrent.

The KPU and KPUD must carry out an assessment of registered persons with mental disabilities, to find out what support needs to be provided by the election/pilkada organizers so that these people can still exercise their right to vote when voting. This form of support is provided with the consent of the person with mental disabilities concerned and still includes the option for the person concerned not to exercise their right to vote on their own terms.

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