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VOTING RIGHTS POSITION IN CONSTITUTIONAL REVIEW AND HUMAN RIGHTS

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ABSTRACT

Background: Law is an important instrument in protecting and upholding human rights in the state. In protecting and ensuring the enforcement of human rights in the state, it must be ensured that the law becomes an instrument in monitoring and even restricting public or state authorities so that there is no abuse of power, in many cases being the beginning of human rights violations.
Aim: This research aims to examine and analyze the protection of human rights in the Indonesian Constitutional Law Post Amendment to the 1945 Constitution.
Method: This research uses normative legal research methods or literature studies, with materials in the form of secondary and tertiary legal materials. The main law material is the 1945 Constitution of the Republic of Indonesia while the secondary material is legal literature that explains and analyzes the laws and regulations related to this research.
Findings: The result of this research is that the right to vote is contained in various legal provisions, both international and national. Persons with disabilities, as part of Indonesian citizens are also entitled to be actively involved in political life in accordance with Article 21 of the Universal Declaration of Human Rights, Article 25 of the Civil Rights Covenant, Article 28D paragraph (3), Article 28H Paragraph (2) and Article 28I Paragraph (2) the 1945 Constitution after the amendments and Article 43 Paragraphs (1) and (2) of Law no. 39/1999 on Human Rights emphasizes that every citizen has the right to get equal opportunities in government, both to be elected and to vote without discrimination.

KEYWORDS
Position of voting rights; Indonesia; Human Rights

INTRODUCTION

The dynamics of Indonesian law today are human rights and the constitution. The concept of law is closely related to human rights and the constitution. In this case, it can be understood that law in the most general sense is the establishment of a definite relationship that comes from the nature of things. In this sense all existence has its law. The development of a developing country at the beginning of its emergence was a state of power *(machtstaat)* which was based on the law of a king and developed later into a state of law *(rechtstaat, rule of law, government of law not of men)*. So, in the same sense, namely that: (1) Public authorities can only exercise authority based on higher orders that are permitted by law, and (2) The law is binding on all members of the community.

Law is an important instrument in protecting and upholding human rights in the state. In protecting and ensuring the enforcement of human rights in the state, it must be ensured that the law becomes an instrument in monitoring and even restricting public or state authorities so

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that there is no *abuse of power*, in many cases being the beginning of human rights violations. Supervision of the state is the main question of constitutionalism, so that controlling the state certainly cannot be the ultimate goal of an effort to supervise public authorities or the state without a background of a goal.

Constitutionalism is the notion of limiting state power in a more tangible and operational level, which is implemented in the life of the state. The constitution is closely related to the limitations of power. History related to the French Revolution is inseparable from the thoughts of Rousseau who in his work *Du Contract Social*, gives an idea that between the rights of citizens and the government there needs to be a limitation. Rousseau explained that in addition to the public person, we must also be aware of the individuals who have built the state, whose life and freedom naturally depend on the public person. Furthermore, we are bound to distinguish clearly between the rights of citizens and governments which are respected (Mahmud, 2005).

In addition, human rights are a basic right that is inherently owned by a person, is universal and therefore must be protected, respected, maintained, and should not be ignored, reduced, or taken away by anyone, including the state itself (Rahman & Indrayati, 2019). Human rights are given naturally where John Locke explains that every individual is endowed with the inherent nature of life, freedom and ownership, which belong to him and cannot be revoked or revoked by the state. The protection of this inalienable right is left to the state through a 'social contract', but with the provisions emphasized by John Locke that if state authorities ignore the social contract by violating individual rights of natural rights, the people of the state are free to overthrow the ruler and replace it with a government that is willing to respect these rights".

The natural process of granting human rights is based on the theory of natural rights, pre-positive existence, as well as individual rights getting strong recognition. This instrument of recognition of human rights is made in the form of a social contract which in the state system is in the form of the Constitution of a country, which guarantees, protects and fulfills human rights. However, it should be noted as stated earlier that the Constitution is not the source of human rights because human rights are derived naturally from the basic nature of human existence. The above theory serves as the basis for the protection of human rights as one of the important principles in the context of constitutional law and governance. Constitutional guarantees for the protection of human rights are very important in constitutional law (Sihombing & Hadita, 2021).

Rules made by the people to govern government, and government itself without a constitution is the same as power without authority. The importance of a constitution in a State is also shown in the French term "constituent" which means "to form" or "formation of a state or "to compose and declare a State", while in Latin, the word "constitution" means "to make something stand" or "to build" and “constitutional” means “everything that has been established” (State). In Indonesia, the term “constitution” is a direct translation of the Dutch language “grondwet”. The word “wet” means “act,” and “grond” means “land/base.”

In practice, the meaning of "constitution" can be broader than the definition of "basic law", but there are also opinions which state that the meaning of "constitutional" law is the same as "basic law". For political science experts, the term "constitution" is used in a broader sense, namely all written and unwritten rules that govern how a government is organized in a society. The assumption that the Constitution is the same as the basic constitution has never

been unanimously approved. Some scholars explain that the notion of "constitution" is the same as "basic law" while others argue that "constitution" is not the same as "basic law" (Nasution & Marwandianto, 2019).

Every citizen has the right to be actively involved in political life. This right is contained in various legal provisions, both international and national. Persons with disabilities, as part of Indonesian citizens also have the right to be actively involved in political life in accordance with Article 21 of the Universal Declaration of Human Rights, Article 25 of the Civil Rights Covenant, Article 28D paragraph (3), Article 28H Paragraph 2 and Article 28I Paragraph (2) The 1945 Constitution after the amendments and Article 43 Paragraphs (1) and (2) of Law no. 39/1999 on Human Rights emphasizes that every citizen has the right to get equal opportunities in government, both to be elected and to vote without discrimination.

Based on a series of national laws and regulations related to political rights, there is not a single provision that is discriminatory in nature. Therefore, in this context, the right of persons with disabilities to vote or to be elected must be guaranteed and actively involved in every momentum in this context, namely elections. In terms of the right to vote, persons with disabilities must have friendly access to them, election officials and officers who understand the special needs of persons with disabilities. In terms of the right to be elected, persons with disabilities must be given the opportunity to participate in every election activity, have the same access as others to participate in election contestations through the channels provided by the applicable laws and regulations.

However, as a law, the constitution itself is not always written as a constitution because human rights law is given as part of a legal constitution, it cannot be avoided that the material taught is also limited as a complement to constitutional law, which is taught as one element of the concept of the rule of law *(rechtsstaat)*. The thing that is of concern is when there is a process of reviving Soepomo's integral State idea in constitutional law which is considered a state of mind of the Indonesian state, one of which is in the election of Indonesian leaders and the position of people's suffrage.

This process leads to the teaching of human rights in granting voting rights to humans based on a human rights perspective (Simamora, 2013). It is further explained that the discourse developed by viewing human rights as empowering individuals who are protected against the power of the state and society is rarely displayed, as developed by human rights. In international treaties referred to as human rights are divided into two, namely the international covenant on civil and political rights (Simanjuntak, 2014). The people's right to vote is in the Covenant on Civil and Political Rights, where in this covenant the political rights of the people, which include the right to vote and be elected, are guaranteed in it. This study aims to examine the position of the right to vote when viewed from the perspective of human rights.

The legal framework for elections is an important instrument for achieving fair elections. A fair election will be achieved if election regulations are formulated properly. The word 'good' means that the regulation is free from disharmony and does not contain norms that partially treat citizens and voters (MD, 2000). In this regard, International IDEA proposes that: electoral justice is understood as the running of the electoral process properly in accordance with regulations and the availability of a mechanism for resolving electoral disputes and violations within a specified time. The scope of the electoral justice system includes:

1) Ensure that all actions, procedures and decisions related to the electoral process comply with the legal framework;
2) Protect or restore voting rights; and
3) Giving people who believe their voting rights have been violated the ability to challenge, have their cases heard and accept the verdict.

The rules that are intended as the basis for holding fair elections are rules that are formulated to achieve fair political competition. Election rules must be in the context of how citizens' constitutional rights to vote and be elected are respected, protected impartially and equally. According to the United Nations Democracy Fund (UNDEF), guaranteeing justice for all voters and candidates in elections is one of the principles that must be met for fair elections. The first is in line with the existence of the right to vote as a constitutional right of citizens. As a constitutional right, the right to vote is a manifestation of the right to equal opportunities in law and government as guaranteed in Article 27 paragraph (1) and Article 28D paragraph (3) of the 1945 Constitution (Afandi et al., 2014).

With these constitutional guarantees, the state is responsible for protecting and respecting rights by taking various actions, including in terms of legislation relating to elections. When the right to vote or the right to take part in elections will be further regulated, the arrangement must remain within the framework of providing equal opportunities to all citizens in exercising their political rights. So that the regulation of restrictions on voting rights does not conflict with the principle of equal rights and opportunities for all citizens, all regulations must be formulated proportionally (Hidayat, 2016). In that sense, restrictions on rights can be adopted, but those restrictions must be fair. To assess whether an election regulation has been complied with as a principle, two indicators can be applied. First, one rule should not conflict with another and this will avoid legal uncertainty; Second, the requirements set out as restrictions must be applied equally to every public office that is contested through elections.

The equality of applicable requirements is one of the main indicators for assessing fairness as an electoral legal framework (Aminah, 2010) yet it is a rarely discussed topic. Based on this explanation, this article would like to discuss further about the regulations regarding restrictions on voting rights in general election regulations and regional head elections in Indonesia, whether these restrictions have met the principle of fairness or not. To be specific, this research aims to examine and analyze the protection of human rights in the Indonesian Constitutional Law Post Amendment to the 1945 Constitution.

Legal Framework for Restricting Suffrage

Since independence, Indonesia has held 11 legislative elections and 3 direct elections, presidential elections. Similarly, after the amendment to the 1945 Constitution, direct elections have also been held for three terms in 34 provinces, 415 regencies, and 946 cities throughout Indonesia. The holding of elections has so far been regulated in the Act. Of all the laws, two still apply as the basis for holding general elections and regional head elections to date, namely:

1) Law Number 7 of 2017 concerning General Elections; and
2) Law Number 1 of 2015 concerning the Election of Governors, Regents, and Mayors as amended by means of Law no. 10 of 2016.

Two general election regulations and regional elections regulate the requirements or limitations of the right to vote and also to be elected. The requirements set out in this are the requirements for the nomination of members of the People's Representative Council (DPR), Regional Representative Council (DPD), President and Vice President, Regional People's Representative Council (DPRD), and regional heads. Both laws regulate the limitation of voting rights and are elected clearly. Different in terms of law, and different in terms of positions chosen in general elections and regional head elections (Rahmanto, 2019).

To exercise the right to vote in general elections, Law Number 7 of 2017 stipulates the following requirements:

1) Indonesian citizens.
2) On election day 17 years old or already/already married.
3) Registered as a voter.
4) Not deprived of political rights by the court
5) Not a member of the Indonesian National Army (TNI)
6) Indonesian National Police

To exercise the right to vote in regional head elections, a citizen must meet the following requirements:

1) Indonesian Citizen
2) On election day 17 years old or already/married
3) Registered as a voter
4) Not in psychological/memory disorders
5) The right to vote is not revoked by a court decision which has permanent legal force.

In addition to regulating the right to vote, the two laws also regulate the nomination of citizens as candidates; for the membership of DPR, DPD, DPRD, President and Vice President, and regional heads. When accumulated, there are up to 38 requirements that serve as restrictions on candidacy rights. The above requirements can be classified into five categories, namely: (1) personal qualification requirements; (2) personal disqualification requirements; (3) loyalty to the state and fulfillment of state requirements; (4) restrictions on abuse of power requirements; and (5) nomination administration requirements.

One of the steps to determine the fairness of elections is the standard limitation which is applied to all persons elected to office. The more equal the restrictions, the fairer the electoral legal framework (Bawamenewi, 2013). On the other hand, the further the gap in terms of requirements differentiation among candidates, the fairer the electoral legal framework will be. Furthermore, the equality of the legal framework for limiting voting rights can also be seen from the level of synchronization and implementation of requirements for all elected candidates. Synchronization of electoral regulations is one of the instruments to ensure compliance with the principles of equal treatment before the law.

Adherence to the principles, as said by Hans Kelsen, the unity of law and order in the context of the selection of regulations will be maintained. At the same time, the rights of citizens in elections can also be protected, guaranteed in terms of certainty, and treated fairly.

Voting Rights Limit

In setting voting rights restrictions, there are quite serious problems. This is related to the unequal requirements applied for general elections and for electoral districts, while both are elections for public office which are filled through elections involving the people. The differentiation policy will create a gap in the treatment of citizens in elections if the policy is not based on logical and objective reasons. Logical and objective standards in measuring the application of policy differentiation are a difficult and sensitive task (Purwanto et al., 2020). This is due to the fact that the measurement must be based on objective justification which will depend on the values among society which can change depending on space and time.

If it is related to the study of philosophical justice, the dilemma of determining the measurement of tolerable differentiation can be answered. The objective measurement is to avoid the occurrence of conditions where a group of people will take advantage, and some other groups will be disadvantaged in terms of rights. In other words, the objective measurement of the implementation of differentiation in principle is the proportionality of implementation. Restrictions on the Right to be Voted In the history of Indonesian general elections, the regulations limiting the right to vote are very dynamic. In such dynamics, there are requirements that are consistently used, there are requirements that are applied but removed at the next election, and there are new requirements to accommodate the needs of the day.

In the early general election period, the requirements to become a candidate are generally no more than six elections. During the New Order regime, there were eleven conditions for exercising the right to vote and three for being elected. These three requirements only apply to candidates for president/vice president and regional heads/deputy heads. These requirements do not apply to candidates for membership in the DPR, DPD, and DPRD. Meanwhile, the legislative office, like the president, and the regional head are the same political office who are elected through elections (Manurung, 2019).

With the same status of the offices, the three requirements should be similarly applied. As candidates for public officials, candidates for members of the DPR, DPD, and DPRD must also be given the obligation to report personal assets to the authorities, must have an NPWP, and have an SPT. This requirement is important because paying taxes is a citizen's obligation, and every candidate for public office must be a role model for other citizens in paying taxes. After all, these requirements are several measures of a candidate's compliance with his duties in serving the country (Zazili, 2016). In this regard, Mahfud MD is of the opinion that in the absence of these requirements for candidates for members of the DPR, DPD, and DPRD because these offices are representative offices, and these candidates for officials are not always qualified as tax subjects.

On the other hand, executive officers are people who, because of their income, qualify as tax subjects. In accordance with tax provisions, the obligation to have a NPWP only applies to citizens, both individuals and legal entities whose income meets the minimum income tax requirements. However, that is not the reason for the application of these three requirements for candidates for DPR, DPD absolute. The requirements can still be adopted by certain exceptions; mandatory requirements for candidates for members of the DPR, DPD, and DPRD whose income is subject to tax (Ramadhanil et al., 2019). Meanwhile, for candidates whose

income is still below the standard, the tax requirements do not apply to them, but they still have to report their assets. Thus, when a person is nominated to become a member of the DPR, DPD, and DPRD, the candidate must report all activities, business and income. The report will then show whether he is a tax subject or not, a tax compliant subject or not.

When elected, asset and tax reports will be one of the means of control against possible abuse of power. This need stems from efforts to encourage clean government and the spirit of fighting corruption. However, to achieve equality in elections, similar requirements and not related to the specifics of each political office must be equally applied (Bawamenewi, 2013). The application of the same requirements taking into account the proportional principle will still open up opportunities for candidates with incomes lower than the tax standard to be nominated.

METHOD

This research uses normative legal research methods or literature studies, which comes in the qualitative category, because it examines and analyzes the protection of human rights in the Indonesian Constitutional Law Post Amendment to the 1945 Constitution. The Constitution of the Unitary State of the Republic of Indonesia. This method uses primary, secondary and tertiary legal materials in the process. the main law material is the 1945 Constitution of the Republic of Indonesia (Mukti & Yulianto, 2013). While the secondary material is legal literature that explains and analyzes the laws and regulations related to this research. Tertiary legal materials include dictionaries and encyclopedias that help in describing some of the terms or concepts used in this research. The law approach is used to analyze the 1945 Constitution of the Republic of Indonesia and a conceptual approach that departs from the views and doctrines that have developed in legal science, such as the concept of the constitution, basic human rights, and other related materials. Based on legal materials such as laws and regulations, theories, and doctrines obtained, processed and interpreted to answer the problems raised on the subject.

RESULTS AND DISCUSSION

The right to vote and the right to be elected are rights that are protected and recognized in the Constitution of the Republic of Indonesia (the 1945 Constitution of the Republic of Indonesia). The stipulations that govern are Article 27 Paragraph (1), Article 28D Paragraph (3), Article 28E Paragraph (3). This is also regulated in Article 43 Paragraph (1) of Law Number 39 of 1999 concerning Human Rights. These provisions become the legal basis for every Indonesian citizen to have the freedom to participate in determining their representatives, both to sit in the legislative body and as the head of the executive institution which is carried out through elections.

That way every citizen who will exercise these rights in every election must be free from everything that can cause fear and all forms of discrimination to channel their rights to vote and be elected in every election process. It can be interpreted that the right to be elected as part of the right to vote is a human right that can be implemented in a democratic general election. Every citizen has the right to be actively involved in political life.

This right is contained in various legal provisions, both international and national. Persons with disabilities, as part of Indonesian citizens also have the right to be actively involved in political life in accordance with Article 21 of the Universal Declaration

of Human Rights, Article 25 of the Civil Rights Covenant, Article 28D paragraph (3), Article 28HAyat 2 and Article 28I Paragraph (2) of the 1945 Constitution. after the amendments and Article 43 Paragraphs (1) and (2) of Law no. 39/1999 on Human Rights emphasizes that every citizen has the right to get equal opportunities in government, both to be elected and to vote without discrimination. Based on a series of national laws and regulations related to political rights, there is not a single provision that is discriminatory in nature.

Therefore, every Indonesian citizen has the right to vote or to be elected and must be guaranteed and actively involved in every momentum in this context, namely elections. In terms of the right to vote, persons with disabilities must have friendly access to them, election officials and officers who understand the special needs of persons with disabilities. In terms of the right to be elected, persons with disabilities must be given the opportunity to participate in every election activity, have the same access as others to participate in election contestations through the channels provided by the applicable laws and regulations.

There is an understanding of the basic law which is a constitution either in the sense of a general purpose*;* a) The public knows the general acceptance of the same government philosophy; b) Consensus on the rule of law as the basis of government or state administration (the basis of government); The first consensus regarding common aspirations determines the formation of a constitution and constitutionalism in a country. Therefore, in society, in order to ensure unity within the framework of the state, it is necessary to formulate a common goal or ideology as a state philosophy or *staatsidee* which functions as a *philosophical philosophy,* in Indonesia it is called Pancasila, meaning five precepts or five basic principles to achieve or realize the four state goals. contained in the Fourth Paragraph of the 1945 Preamble to the Constitution.

The second consensus talks about the basis of governance. It stands above the law and the constitution. This is related to the principle of the rule of law. Law is seen as a unified system which at its peak is written or unwritten text. The constitution is the main guide in deciding everything that must be based on the law. The third consensus relates to several things: the establishment of state organs and the procedures for regulating their powers; the relationship between state organs and each other, and the relationship between organs and citizens.

With consensus, the contents of the constitution can be easily formulated because it truly reflects the shared desire of state institutions and constitutional mechanisms to be developed within the framework of constitutional state life. The consensus above basically concerns the principle of regulation and limitation of power in the State which is called constitutionalism. The meaning or value contained in constitutionalism or principles based on the constitution must contain at least two things:

1) Structuring the boundaries of the role of the State or Government disrupting the community and community association;
2) Legal guarantees for rights, civil or individual rights, political rights or social rights as their nature is inherent in every human being, both as individual and social beings.

Indonesia, as one of the countries that has many problems in the field of human rights, has basically contained several contents of rights which are material in the articles of the ICCPR, long before the ICCPR itself was ratified. This can be proven from the articles contained in the

1945 Constitution and one of them is contained in Article 28A concerning the right to life which says "everyone has the right to live and has the right to defend his life and life". Hence, they consider that the right to life is the most basic right and cannot be reduced under any circumstances.

However, after the proclamation of independence of the Republic of Indonesia, the civil and political rights contained in the 1945 Constitution could not and or would not be fully implemented by the governments in power at that time, starting from the regimes of President Soekarno to Suharto. Along with the democratic process that continues to grow and move quickly in Indonesia, there was a 'people's rebellion' against the corrupt and authoritarian regime of President Soeharto in 1998 which was marked by the birth of a 'new' political atmosphere called the reform order.

Furthermore, respect for and enforcement of human rights in Indonesia began to improve, marked by the Decree of the People's Consultative Assembly of the Republic of Indonesia Number: XVII/MPR/1998 concerning Human Rights, Law Number 39 of 1999 concerning Human Rights, Law Number 26 of 2000 concerning Human Rights Courts. For civil and political rights, it is more concretely marked by the Ratification of the ICCPR with Law No. 12 of 2005. However, the reality of the enforcement of these instruments in people's lives has not been fully implemented properly. This is reflected in several existing cases where civil and political rights violations have occurred.

Basically, the ICCPR contains provisions regarding restrictions on the use of authority by state apparatus who wish to act repressively, especially countries that are parties to the ICCPR. For this reason, the rights contained in them are often referred to as negative rights, meaning that the rights and freedoms guaranteed in them can be fulfilled if the role of the state is limited or seen to be reduced. However, if the state acts as an interventionist, the rights and freedoms regulated in it will be violated by the state. This is what distinguishes it from the *ICESCR* legislative model which demands the maximum role of the state to fulfill the rights in the covenant which are often referred to as positive rights.

There are two classifications of rights in the ICCPR, namely Non-Derogable Rights and Derogable Rights. Non-derogable rights are rights that are absolute that should not be reduced compliance by States parties, although in a pinch though. The rights that fall into this type are: 1) The rights to life, 2) The right to be free from torture, 3) The right to be free from slavery, 4) The right to be free from detention for failing to fulfill a debt agreement, 5) Right to be free from retroactive punishment, 6) Rights as legal subjects, and 7) The right to freedom of thought, belief and religion.

The second classification is Derogable Rights, namely rights that may be reduced or limited by the fulfillment of state parties. Included in this type of rights are: 1) The right to freedom of peaceful assembly, 2) The right to freedom of association; including forming and becoming a member of a trade union, and 3) The right to freedom of opinion or expression; including the freedom to seek, receive and impart information and ideas of all kinds without regard to boundaries (Whether in writing or in writing). States parties to the ICCPR are allowed to reduce or carry out deviations from their obligations to fulfill these rights, but such deviations can only be carried out if they are proportional to threats to national security or situations and are not discriminatory.

The two main principles are the limitation of government power and the protection of human rights. It can be interpreted that there are two important entities in the state that are always dealing with the government (As the party holding the authority and exercising the actual state power) even in certain cases the government in action is the representation of the state, which deals with humans in general and individuals who are human rights owners and citizens/civil rights.

This is the urgency of the Constitution to be the first and the main instrument in ensuring that human rights are respected, protected and fulfilled by the state. Although basic human rights are universal, without the guarantees and national protection of the Constitution, it will be very difficult to implement. Even the formulations that have been firm and clear as in the provisions of the constitution are categorized as non-derogable rights, but they can still be interpreted differently.

Implementation of the Functions of the Constitutional Court as Human Rights Protector

The amendment to the 1945 Constitution is an important moment to strive for the realization of a better national and state life. This amendment has resulted in changes to the state's systems, structures, mechanisms, and institutions. Not only because of changes in the provisions governing state institutions but also because of changes in the paradigm of state law and administration. Some of the basic principles include affirming that Indonesia is a state of law with constitutional supremacy, presidential system, separation of powers, checks and balances, upholding the protection of human rights and the rights of citizens.

According to the logic of constitutionalism, a good constitution must provide a mechanism for reciprocal control between and institutions of state power and a means of guaranteeing the protection and fulfillment of human rights, as well as instruments and mechanisms to restore rights in the event of violations. This is in line with the view of Bagir Manan who explains that: As a consequence of the principle of norm level and constitutional supremacy, there must be a mechanism to protect and ensure that the principle is not ignored or violated. This mechanism is a judicial review of laws and regulations, policies or other government actions against laws or other government policies or actions to a higher level.

The constitution determines authority. The Constitutional Court is not a legal organ but is a constitutional organ. Thus, the basis used by the Constitutional Court in carrying out its constitutional duties and authorities is the constitution itself. Even if laws and other laws, in principle legality, must be obeyed by every person and every institution as a subject in national law, all such laws and regulations must be understood sensibly as long as they do not conflict with the 1945 Constitution.

The establishment of the Constitutional Court was influenced by European law (Civil Law), which gave authority to different institutions (Outside the Supreme Court) to decide on constitutional cases (Bagijo, 2010). Therefore, constitutional review procedures (particularly laws and other statutory regulations) are carried out by:

1) Courts so that this system is known as centralization, while the testing method is called "principal".
2) The Constitutional Court is an independent judicial actor, established by Third Amendment to the 1945 Constitution to administer justice and enforce law and justice in addition to the Supreme Court.

Based on the independent judicial power is defined as the influence of government power; it must be free even from other forces outside the government. The Constitutional Court is a state institution whose powers and the Constitution determine authority. The Constitutional Court is not a legal organ but is a constitutional organ. Thus, the basis used by the Constitutional Court in carrying out its constitutional duties and authorities is the constitution itself. Even if laws and other laws, in principle legality, must be obeyed by every person and every institution as a subject in national law, all such laws and regulations must be understood sensibly as long as they do not conflict with the 1945 Constitution.

The review of a law can be done by material senses (Material *toetsing*) or informal senses (*Formeele toetsing*). If a review is carried out on the material/substance of the Law, then the review is called a "material review". This material is related to the existence of acts that violate human rights and the constitutional rights of citizens. Meanwhile, if the examination is carried out other than the material/substance of the Act, it is referred to as a "formal review".

The review of a law against the constitution is an effort to test the enforcement and application of a law whether the law is detrimental to human rights and the constitutional rights of citizens or not. This is confirmed in the legal standing of each applicant when they submit an application to the Constitutional Court to prove that a law has harmed him/her constitutional rights and civil rights and even the Act itself is the opposite of the 1945 Constitution.

In the case of judicial review of the Constitution, the Petitioner is the party who considers that a law has impaired its constitutional rights: Individual Indonesian citizens (this understanding has experienced expansion including foreigners who have a direct interest in the enactment of laws that harm rights basic); Unity of customary law communities or indigenous peoples as long as there is life and with community development and the principles of the Unitary State of the Republic of Indonesia are regulated in law; Public or private legal entities; or state agencies.

CONCLUSION

The right to vote is protected and contained in various legal provisions, both international and national. Even people with disabilities as part of Indonesian citizens have the right to be actively involved in political life in accordance with Article 21 of the Universal Declaration of Human Rights, Article 25 of the Civil Rights Covenant, Article 28D paragraph (3), Article 28H Paragraph (2) and Article 28I Paragraph (2) the 1945 Constitution after the amendments and Article 43 Paragraphs (1) and (2) of Law no. 39 of 1999 concerning Human Rights states that every citizen has the right to get equal opportunities in government, both to be elected and to vote without discrimination. Based on a series of laws and regulations related to political rights, there is not a single provision that is discriminatory. These provisions become the legal basis for every Indonesian citizen to have the freedom to determine their representatives, both to sit in the legislature and as the head of the executive institution which is carried out through elections.

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