

Uncertainty of Sanction Norms in Safeguarding Political Rights of Disabled Voters in Indonesia

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Abstract

The protection of political rights is a fundamental element of democratic governance and reflects the principle of equality before the law. Within a democratic framework, all citizens are entitled to engage in political processes without discriminatory barriers, including individuals with disabilities. Their involvement may take multiple forms throughout the electoral process, whether as voters, electoral candidates, or contributors to the administration of elections. Although these rights have been formally recognized within the national legal framework, their effective implementation in practice continues to encounter various challenges. Significant challenges persist, especially in guaranteeing adequate accessibility throughout the electoral process. This study contributes to the debate on legal certainty by examining sanction norms within the hierarchy of laws and regulations governing disability rights in elections. The analysis focuses on the relationship between general guarantees of disability rights, the broader legal framework governing elections, and technical administrative guidelines developed by electoral institutions. Using normative legal research with statutory and conceptual approaches, the study finds that although the regulatory structure appears formally aligned, the provisions concerning sanctions remain general and lack clarity. This condition weakens the effectiveness of legal protection and may hinder the realization of accessible and inclusive elections for persons with disabilities.

Keywords: Disability rights protection; Electoral law regulation; Inclusive electoral processes; Legal sanction mechanisms; Political rights participation.

A. INTRODUCTION

Political rights are a key part of running a democracy because they help make sure that all people can take part equally in making decisions that affect the public. (Siagian & Timbul, 2025). These rights involve being able to vote, to run for office, and to take part in how the government works. In a country that follows a constitution, everyone must have equal rights to participate in politics, and this should include people with disabilities (Samosir & Novitasari, 2022)

In legal science, there is a concept known as Equality Before The Law, which affirms that everyone has the same standing before the law and must be protected from discrimination (Apriani et al., 2024). In Indonesia, this principle is regulated in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that all citizens are equal before the law and the government (Budiwono, 2025). This principle affirms that every citizen, without exception, has the right to equal treatment in all aspects of life, including political participation. This equality is not only a normative concept, but also a value that must be realized in practice, whereby every individual, regardless of their background or physical condition, including persons with disabilities, is guaranteed equal and fair opportunities to exercise their right to vote (Ansar & Hasmiyati, 2024).

The responsibility to fulfill and protect the rights of persons with disabilities rests upon the state and all components of the legal system. Such responsibility includes preventing discrimination, ensuring dignity, and guaranteeing constitutional participation in public affairs (Farhan & Suherman, 2024).

In Indonesia, the recognition of political rights for persons with disabilities has been firmly established across various statutory frameworks. Law No. 8 of 2016 on Persons with Disabilities provides the primary legal foundation by emphasizing equality and ensuring the participation of persons with disabilities in public and political life. This framework is further strengthened by Law No. 7 of 2017 on General Elections, which affirms that persons with disabilities have the same legal standing as other citizens in the electoral process. Moreover, the legislation imposes an obligation on election management bodies to ensure that each phase of the electoral process is conducted in a manner that upholds accessibility and inclusivity, thereby enabling meaningful participation for all voters (Haryani, 2023).

At the practical level, these normative commitments are translated into more specific technical instruments, one of which is the Decree of the Secretary General of the General Election Commission (KPU) No. 2109 of 2025. This instrument functions as an operational guideline for election officials in ensuring the effective participation of voters with disabilities. It regulates, among other aspects, procedures for providing assistance tailored to various types of disabilities, including the use of appropriate and accessible communication approaches. In addition, it sets baseline standards for physical accessibility within KPU offices and polling stations, and mandates the availability of information services designed to be accessible to persons with disabilities.

Taken together, these regulatory instruments indicate that, at least from a procedural perspective, the state has developed relatively comprehensive

guidelines to support the participation of persons with disabilities in electoral processes.

Comparative insights from the United Kingdom show that when disability rights are legally acknowledged, it usually comes with more robust enforcement systems. The Equality Act 2010 and the Representation of the People Act 1983 mandate that public bodies and election officials actively prevent discrimination and ensure that disabled voters have access to the electoral process (Brown & Jones, 2023). This comparison indicates that simply recognizing rights is not enough; there must also be effective means of implementation persons (Reher, 2022).

Although the regulatory framework in the United Kingdom demonstrates a relatively strong integration of equality principles and implementation mechanisms in the conduct of elections, this situation has not yet been fully reflected in Indonesia's regulatory system. While various regulations have indeed recognized and guaranteed the political rights of persons with disabilities, the effectiveness of such protections still depends on the clarity of the relevant norms and the strength of the enforcement mechanisms governing them.

Therefore, it is important to further examine how the existing regulatory framework can provide meaningful legal protection for the fulfillment of the political rights of persons with disabilities in the conduct of elections in Indonesia.

Although the regulatory framework appears comprehensive at the formal level, it reveals structural weaknesses in its normative design, particularly in the formulation of sanction mechanisms. This condition reflects the absence of a coherent and integrated sanctioning system, resulting in fragmented enforcement.

As a result, the legal protection granted to the political rights of persons with disabilities risks losing its coercive force in practical implementation.

This article contends that the protection of these political rights remains hindered by a lack of legal effectiveness. One of the main contributing factors lies in the design of sanctioning provisions within Law No. 8 of 2016 on Persons with Disabilities, which are predominantly administrative in nature and formulated in overly general and non-operational terms, thereby limiting their enforceability. As a result, thwheir ability to respond effectively to the immediate and complex demands of electoral processes remains limitedth. The problem is further compounded by Law No. 7 of 2017 on General Elections, which largely relies on criminal sanctions that require proof of intentional conduct, a standard that is often difficult to establish in disputes related to electoral accessibility. Another point of weakness can be identified in KPU Secretary General Decree No. 2109 of 2025. Despite providing highly detailed technical guidelines, the decree contains relatively vague norms regarding the classification of violations. As an internal regulatory instrument, its enforcement capacity is primarily limited to the imposition of disciplinary sanctions on civil servants. As a result, violations related to accessibility are not clearly recognized as procedural irregularities that could affect the legitimacy of electoral processes or their outcomes.

Previous research on the political rights of persons with disabilities in elections predominantly demonstrates that, although legal safeguards are formally recognized, their effectiveness remains constrained by various implementation challenges. This is evident from findings showing that, although people with disabilities formally have the right to vote and to be elected, practices on the

ground are still hindered by social stigma and the limited capacity of election organizers to provide inclusive services (Selan et al., 2025).

Furthermore, the state's responsibility to ensure the accessibility of elections has actually been clearly defined within the regulatory framework; however, weak oversight and a lack of enforcement against violations have prevented this obligation from being fully fulfilled (Ansar & Hasmiyati, 2024). These implementation challenges are further compounded by findings that some polling stations remain inaccessible to people with disabilities, both in terms of physical facilities and staff understanding of the needs of voters with disabilities (Hamka et al., 2025).

On the other hand, the law enforcement aspect of election violations also faces normative challenges, particularly in proving the element of intent a prerequisite in many criminal provisions which results in lenient sanctions for such violations (Munawar et al., 2025). Furthermore, this issue is not only related to implementation aspects but also to the structure of the legal norms themselves, where inconsistencies and weaknesses in implementing regulations within the hierarchy of laws and regulations also hinder the effective application of these norms in practice (Prianto, 2024).

Previous studies have predominantly focused on the practical implementation of electoral accessibility, institutional responsibilities, and socio-technical barriers faced by persons with disabilities. While these studies successfully highlight empirical challenges, they tend to treat legal norms as given and unproblematic.

However, limited attention has been given to the normative structure of sanction mechanisms, particularly regarding how sanction provisions are

formulated, interpreted, and enforced within the hierarchy of laws and regulations. Existing scholarship has not sufficiently examined the problem of vague sanction norms, nor has it analyzed how inconsistencies between statutory law and technical regulations weaken legal enforceability. This indicates that prior studies have predominantly adopted an empirical and implementation-oriented perspective, while insufficient attention has been directed toward the structural and normative design of sanction mechanisms. Therefore, this study positions itself within a normative-structural approach, focusing on how the formulation and hierarchy of legal norms themselves contribute to the persistence of legal uncertainty and weak enforceability.

Therefore, this study identifies a critical gap in the literature: the absence of a systematic normative analysis of sanction ambiguity and its implications for legal certainty and effectiveness, particularly through the lens of hierarchical norm theory and legal effectiveness theory. This gap indicates that previous studies have largely focused on empirical and implementation-related issues, while insufficient attention has been given to the structural and normative design of sanction mechanisms within the legal system.

Based on this background, the research questions in this study are: (1) How do the regulations in Law No. 8 of 2016, Law No. 7 of 2017, and KPU Secretary General Decree No. 2109 of 2025 synchronize to realize inclusive elections for persons with disabilities? (2) Why are the sanction mechanisms contained in this series of regulations still general in nature and ineffective in protecting the political rights of persons with disabilities?

In line with the formulation of the problem, this study aims to analyze and describe the synchronization of regulations between Law No. 8 of 2016, Law No. 7 of 2017, and KPU Secretary General Decree No. 2109 of 025 in ensuring inclusive elections. In addition, this study also aims to identify and critique the weaknesses of the sanction mechanism in these regulations in order to demonstrate the potential for ambiguity in the norms, which has an impact on the suboptimal legal protection of the political rights of persons with disabilities in the implementation of elections.

B. RESEARCH METHOD

This research utilizes normative legal analysis to investigate the safeguarding of political rights for individuals with disabilities during elections, specifically focusing on the sufficiency of current sanction laws. A legislative approach is employed to evaluate the alignment among Law No. 8 of 2016, Law No. 7 of 2017, and the Secretary General of the General Election Commission's Decree No. 2109 of 2025. Furthermore, a conceptual framework is incorporated through the theory pertaining to the hierarchy of norms, the principle of vague norms, and the theory concerning legal effectiveness. Legal resources falling into primary, secondary, and tertiary categories were gathered via library-based research and qualitatively examined through statutory, systematic, and conceptual interpretations to develop prescriptive suggestions aimed at enhancing mechanisms for sanctions and ensuring legal clarity in inclusive electoral processes.

C. RESULT AND DISCUSSION

1. Synchronization of Regulations on the Protection of Political Rights of Persons with Disabilities

Provided for in Article 27, paragraph (1) of the 1945 Constitution, which states that all citizens are equal before the law and in the administration of government (Fikri, 2022). This principle affirms that every citizen, without exception, has the right to equal treatment in all aspects of life, including political participation. This equality is not only a normative concept, but also a value that must be realized in practice, where every individual, regardless of their background or physical condition, is guaranteed equal and fair opportunities to exercise their right to vote.

At the legal level, this assurance is clearly acknowledged in Article 13 of Law No. 8 of 2016 regarding Individuals with Disabilities. This article confirms the entitlement of individuals with disabilities to engage in civic activities, which encompasses voting, standing for election, articulating political goals, enjoying accessibility during elections, and acquiring political education. These stipulations make it clear that a person's disability status cannot serve as grounds for restricting political rights (Adhyaksa, 2023).

This structure is supported by Article 5 of Law No. 7 of 2017 on General Elections which ensures that individuals with disabilities have the same opportunities as voters, candidates, and those involved in organizing elections. From a normative perspective, these two laws are aligned as they both acknowledge equality, involvement, and the prohibition of

discrimination in voting processes. Law No. 8 of 2016 establishes the rights-based principles, whereas Law No. 7 of 2017 applies those principles within the context of elections.

Additional synchronization is observed on a technical scale. According to Article 350, Section (2) of Law No. 7 from 2017, polling places must be reachable and ensure confidentiality in voting for individuals with disabilities. As the law fails to specify practical standards for accessibility, these issues are expanded upon in the Decree issued by the Secretary General of the General Elections Commission Decision No. 2109 of 2025. This decree outlines the protocols for assistance, standards for physical accessibility, and services that are considerate of disabilities at polling locations. In this context, the decree serves as a practical tool that details the broad legal responsibilities.

Nonetheless, this synchronization is still not fully realized when examined in the context of normative hierarchy. According to Law No. 12 of 2011 and the theory of the Hierarchy of Legal Norms (*Stufentheorie*) from Hans Kelsen, Each norm derives its validity from a higher norm; lower-level norms function as concretizations of higher-level norms; the validity of law is determined by a consistent normative structure (Rinaldi et al., 2025). Within this framework, if implementing norms do not have sufficient binding force to implement higher norms, then there is an imperfection in the function of concretization. Kelsen's theory was later reinforced by Hans Nawiasky's theory of the hierarchy of legal norms which classifies the legal norms of the state into four main layers that are systematic and functional in nature, consisting of:

1. *Staatsfundamentalnorn* (Fundamental State Norm)

This is the basic norm that serves as the source of legitimacy for the entire legal system. This norm contains the fundamental values of the state, which are philosophical in nature and form the basis for the formation of subordinate norms.

2. *Staatsgrundgesetz* (Basic State Law)

This level includes constitutional provisions that set out fundamental norms for shaping the state, distributing government powers, and protecting the rights of individuals. The rules at this level tend to be vague and cover the broad outlines that provide the most fundamental framework for the entire system of law.

3. *Formelles Gesetz* (Formal Law)

These are norms that are formed through legislative procedures to regulate rights and obligations in general. At this level, constitutional principles are translated into more concrete legal obligations.

4. *Verordnung & Autonome Satzung* (Implementing Regulations)

This layer contains operational and technical implementing norms. Its function is to concretize the provisions of the law so that they can be applied in the practice of state administration (Prianto, 2024).

The specific statutes of law 8 of 2016 and law 7 of 2017 are classified as *formelles Gesetz* and are concerned exclusively with defining rights, duties, and responsibilities of the state in the abstract. Neither of these laws, on the one hand, and in contrast to the law on the ratification of the convention on the rights of persons with disabilities, which authorizes election officials to

provide accessibility to all stages of the electoral process, do not exercise the political rights of persons with disabilities. The KPU Secretary-General Decision No. 2109/2025 is internal to the administrative structure of the KPU and, in this regard, is of an administrative nature. From the perspective of administrative law, these are classified as dispositive and specific acts, as opposed to the general and systematic acts of regulation.

In this regard, regulations concerning public rights (constitutional rights) should be set forth in instruments that have general binding force (Al-Fatih & Muluk, 2023). Therefore, these provisions should be set forth in a KPU Regulation (PKPU), rather than merely in an internal decision by the Secretary General (*beschikking*). However, the inclusion of inclusive service standards in KPU Secretary General Decree No. 2109 of 2025 has weakened the force of law. Hierarchically, the Secretary General's Decree is an internal administrative regulation. This causes “normative disorientation,” whereby the state's very high obligations at the level of the Law are only elaborated in technical instruments whose legal force is limited to the KPU bureaucracy. As a result, this synchronization is only administrative-technical in nature, but fails in terms of legal-law enforcement synchronization (Rahayu & Istinah, 2021).

This condition not only reflects a lack of synchronization, but also indicates a latent normative conflict between different levels of regulation. The general and binding nature of statutory obligations is not adequately supported by equally binding implementing norms, resulting in a disconnection between abstract rights and their concrete enforcement.

Consequently, the legal system exhibits a structural inconsistency that weakens both legal certainty and the enforceability of accessibility standards. This imbalance has resulted in the marginalization of service standards set out in the Secretary-General's Decree, which are frequently not treated as substantive violations of electoral procedures, but rather reduced to mere administrative lapses by officials, thereby weakening the overall protection of the political rights of persons with disabilities.

From a normative perspective, this inconsistency can be traced to a conflict between statutory provisions and their implementing regulations. Article 13 of Law No. 8 of 2016 guarantees the political rights of persons with disabilities, including the right to participate in elections, while Law No. 7 of 2017 on Elections mandates equal access for all voters. However, the technical elaboration of accessibility standards is often relegated to internal administrative instruments of the General Elections Commission (KPU), rather than being comprehensively regulated in binding instruments such as KPU Regulations (PKPU). This condition reflects a vertical normative conflict, where lower-level administrative decisions fail to adequately implement higher-level statutory mandates, as well as a functional conflict in which the recognition of rights is not followed by clear and enforceable sanction norms for violations of accessibility obligations.

Thus, it can be concluded that normatively there is synchronization between Law No. 8 of 2016, Law No. 7 of 2017, and KPU Secretary General Decree No. 2109 of 2025 in ensuring the political participation of persons with disabilities. However, this synchronization is not yet fully effective in

legal terms because accessibility standards are placed in administrative instruments that have limited binding force within the hierarchical structure of legislation. This condition indicates a form of normative inconsistency, particularly in a vertical dimension, where higher-level legal guarantees are not adequately supported by equally binding implementing norms, resulting in a gap between formal recognition and practical enforceability.

2. Weaknesses in Sanction Mechanisms: Vague Norms and Legal Effectiveness

From a standpoint of legal clarity, a legal rule should be stated in a clear, consistent, and actionable manner. Nonetheless, laws frequently include vague rules, meaning sections written in broad or unclear language that permit various interpretations, leading to uncertainty in application (Alika et al., 2025). H. L. A. Hart describes this using the idea of *open texture*, which suggests that legal terminology cannot foresee every conceivable future situation. While some level of flexibility might be essential, too much ambiguity can diminish the effective role of legislation (Indah & Triadi, 2025).

This issue is clear within the administrative penalty system established by Law No. 8 of 2016 on Persons with Disabilities. This legislation places significant responsibilities on government bodies, such as the requirement to ensure accessibility, offer reasonable accommodations, and deliver services for disabilities. Nevertheless, numerous punitive measures are articulated solely in broad outlines, lacking explicit details regarding the nature of the penalties, appropriate authorities, processes, or methods for enforcement

(Rama & Trustisari, 2024). Consequently, while the law acknowledges responsibilities, it fails to create a comprehensive operational structure for carrying out sanctions effectively.

The vulnerability is intensified by the assignment of sanction stipulations to subordinate regulatory frameworks. Despite the requirements set by Law No. 8 of 2016 for additional regulation, there exists no detailed mechanism that thoroughly oversees penalties for not ensuring electoral accessibility for individuals with disabilities. This results in a disparity between legal obligations and the penalties that can be enforced. In reality, infractions are frequently viewed as just administrative issues instead of violations that impact constitutional political rights.

Shortcomings are evident in the criminal penalty system established by Law No. 7 of 2017 on General Elections. Numerous electoral crimes necessitate evidence of deliberate actions as the foundation for criminal responsibility (Munawar et al., 2025). Although intent is a key concept in criminal justice, many electoral violations emerge from carelessness, failures to act, lack of concern, or failures by institutions instead of intentional wrongdoing (Raisa & Munandar, 2024). As a result, criminal regulations focused on intentional behaviors are frequently challenging to enforce in situations concerning electoral obstacles linked to disabilities (Murtadho et al., 2024).

Furthermore, the restricted penalties and specific definitions of offenses diminish the effectiveness of punitive measures in discouraging crime. Consequently, even though criminal laws are officially in place, their real

impact on safeguarding the political rights of individuals with disabilities is minimal. This illustrates a fundamental inconsistency between how criminal penalties are structured and the true nature of violations related to accessibility (Riana & Setyawati, 2025).

From the perspective of the hierarchy of norms, statutory guarantees should be supported by implementing regulations containing clear sanction mechanisms. Where such support is absent, the effectiveness of rights protection becomes weakened (Fanggi, 2025).

Building on the issue of vague norms, the distinction between *regeling* (general and abstract regulations) and *beschikking* (individual and concrete administrative decisions) is important in explaining weak enforcement. Where higher regulations formulate obligations in vague terms or fail to provide clear operational standards, implementing authorities are left with broad discretion. This may lead to inconsistent decisions, uneven enforcement, and limited accountability (Muhshi & Yunita, 2024). In the context of disability rights in elections, unclear regulatory standards weaken the application of sanctions because officials lack precise legal benchmarks for determining violations. As a result, statutory guarantees of accessibility risk remaining declaratory rather than enforceable rights (Al-Fatih & Muluk, 2023).

This situation shows that the problems that arise are not only related to the formulation of norms or the structure of authority, but also concern the extent to which the law itself is truly effective in society. In Soerjono Soekanto's perspective on the effectiveness of law, the effectiveness of a legal norm is not determined solely by its textual formulation (Mawaddah & Haris,

2022). Rather, its effective implementation depends on the interaction of five interrelated elements: the substance of the law itself, the role of law enforcement actors, the availability of supporting facilities or infrastructure, the characteristics of the community in which the law operates, and the cultural values that shape societal attitudes toward the law. Thus, a law that appears to be comprehensive, such as Law No. 8 of 2016, will be difficult to implement effectively if one of these factors is weak. From this perspective, vague norms, inoperative administrative sanctions, criminal loopholes, and irregularities in the hierarchy of norms are not isolated issues, but indicators of structural and social barriers to the overall effectiveness of the law (Habeahan et al., 2025).

Consequently, the existing sanction system has not provided effective legal protection for the political rights of persons with disabilities. Administrative sanctions remain general and non-operational, criminal sanctions depend on difficult evidentiary standards of intent, and implementing regulations fail to adequately translate statutory guarantees into enforceable obligations. As a result, a gap persists between formal recognition of rights and their practical realization in Indonesia's electoral system.

D. CONCLUSION

The research indicates that the regulatory system related to the political rights of individuals with disabilities in Indonesia is formally aligned, as shown by Law No. 8 of 2016, Law No. 7 of 2017, along with associated electoral regulations. Nonetheless, this normative alignment has not translated into tangible legal

safeguarding in real-world scenarios. Standards for accessibility are primarily governed by internal administrative measures that have limited enforceability, while infringements are frequently approached as trivial procedural issues instead of violations of constitutional political rights. Moreover, the definitions for administrative penalties lack precision, and penalties within electoral legislation depend significantly on evidence of intent, complicating enforcement in cases of neglect or systemic exclusion.

Therefore, reforms in legislation should target three specific areas. First, there should be a revision of Law No. 7 of 2017 to explicitly categorize failures in providing electoral access as administrative infractions that carry defined penalties. Second, there needs to be an enhancement of Law No. 8 of 2016 by incorporating more actionable enforcement guidelines regarding the protection of political rights. Third, the technical accessibility criteria that are currently part of internal KPU documentation should be transformed into binding KPU Regulations (PKPU). Implementing these changes is essential for ensuring legal clarity, enhancing accountability, and fostering the integrity of inclusive elections throughout Indonesia.

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