

**THE ROLE OF THE CONSTITUTIONAL COURT IN DECIDING DPT
DISPUTES AND THE IMPLICATIONS OF THE CONSTITUTIONAL
COURT DECISION NO. 102/PUU-VII/2009****Tb Rifat**

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Abstract

The background of the problem in this research is related to the Constitutional Court Decision Number 102/PUU-VII/2009 which is a significant breakthrough in the Indonesian legal system, particularly in relation to guaranteeing citizens' constitutional rights in political participation. This decision regulates the use of population identity for prospective voters who are not registered in the Permanent Voter List (DPT), which was previously not permitted in the provisions of Article 28 and Article 111 of Law No. 42 of 2008. The purpose of this research is to analyze the implications of this decision in upholding justice and the constitutional rights of citizens. The benefit of this research is to provide a deeper understanding of the role of the Constitutional Court in safeguarding the political rights of Indonesian citizens. The method used is a case study with an analytical approach to the Constitutional Court Decision and relevant laws. The results of the study indicate that this decision provides space for prospective voters who are not registered in the DPT to still exercise their right to vote, thus restoring constitutional rights that were threatened with loss. This study highlights the importance of the Constitutional Court decision in safeguarding public political participation and its implications for the electoral system in Indonesia.

Keywords : DPT, Constitutional Rights, Constitutional Court, Voters, Disputes.

INTRODUCTION

General elections (pemilu) are a fundamental means for citizens to express their democratic rights. The Indonesian Constitution guarantees this right through the 1945 Constitution, which states that "All citizens are equal before the law and government and are obliged to uphold the law and government without exception," and provides protection for the principle of equal opportunity. This statement emphasizes that elections are not merely a technical mechanism, but also a manifestation of popular sovereignty, as expressed by Kusnardi and Ibrahim (2014), that the people are the holders of supreme power in a country.

However, in reality, not all citizens can fully exercise their right to vote. Based on Article 28 and Article 111 of Law Number 42 of 2008 concerning the Presidential and Vice Presidential Elections, the right to vote is only granted to citizens registered on the Permanent Voter List (DPT) or the Additional Voter List. This creates serious problems, especially for citizens who meet the requirements to vote but are not registered on the DPT. Mahfud MD (2019) highlighted that this kind of injustice can undermine the principle of substantive justice that is the foundation of a democratic state based on the rule of law.

This issue came to a head when the Constitutional Court accepted a judicial review application against the provision. In Decision Number 102/PUU-VII/2009, the Constitutional Court ruled that citizens not registered on the Final Voter List (DPT) still have the right to vote by showing official identification such as an Identity Card (KTP), Family Card (KK), or a passport for Indonesian citizens living abroad. According to Refli Harun (2019), this decision was a significant milestone in protecting citizens' constitutional rights, particularly in the context of elections.

The Constitutional Court has stated that the right to vote is a fundamental and constitutional human right. Therefore, administrative procedures such as voter registration should not hinder the exercise of this right. Satjipto Rahardjo (2019) explains that the law should serve the public, not hinder the exercise of basic rights. In this context, the use of ID cards or passports as an alternative solution for citizens not registered on the Voter List (DPT) is a form of legal adaptation that is responsive to the needs of the community.

However, the Constitutional Court did not declare Article 28 and Article 111 of Law Number 42 of 2008 unconstitutional. Instead, the Court affirmed the constitutionality of these articles by establishing five requirements for their constitutionality. This demonstrates that the Constitutional Court acts not only as an interpreter of laws but also as a norm-setter within the framework of checks and balances. Lawrence M. Friedman (2017) states that an effective legal system must be able to adapt and provide solutions appropriate to social dynamics.

Furthermore, the importance of accuracy in compiling the DPT (Voter List) has been highlighted. Hasyim Asy'ari (2021) emphasized in his international seminar that accurate voter registration is the responsibility of election organizers, not an individual burden.

Data could disenfranchise millions of citizens, which goes against the principles of democracy and justice. Therefore, reforms to the voter registration system are needed to make it more transparent, accurate, and inclusive.

The Constitutional Court's ruling in this case also reflects the importance of protecting the right to vote as a human right that cannot be diminished under any circumstances. Jimly Asshiddiqie (2020) emphasized that the right to vote is a key element in realizing the ideals of democracy and popular sovereignty. Therefore, the implementation of elections must ensure that no citizen is deprived of their right to vote due to administrative constraints.

Beyond the legal aspects, this ruling also has significant political implications. Miriam Budiarjo (2014) stated that elections are the primary mechanism in a democratic political system for determining the direction of public policy and the legitimacy of government. By providing broader access to voters, the Constitutional Court's ruling also strengthens the legitimacy of the election process and its results.

As an institution responsible for upholding constitutional justice, the Constitutional Court serves to ensure that citizens' fundamental rights are protected. Sudikno Mertokusumo (2015) emphasized the importance of fair and impartial trials as a key pillar of a democratic legal system. In this case, the Court successfully restored rights lost due to inadequate administrative policies.

The Constitutional Court's decision-making process also reflects principles of the rule of law, such as due process of law and independence of the judiciary. Hikmanto Juana (2016) stated that public trust in the judiciary depends on transparency, accountability, and integrity of the decision-making process. By ruling on this case quickly and without hearing from the government or the House of Representatives, the Court demonstrated its courage in protecting citizens' constitutional rights.

However, this ruling also presents new challenges, particularly in its implementation. The General Elections Commission (KPU), as the election organizer, must ensure that the KTP or passport usage mechanism runs smoothly without creating new problems. Fauzie Yusuf Hasibuan (2017) stated that effective implementation of legal policies requires good coordination between various relevant parties.

With this ruling, it is hoped that the implementation of elections in Indonesia will better reflect the principles of democracy and justice. Satya Arinanto (2021) emphasized that elections are the primary means of realizing popular sovereignty, and therefore, all citizens must be given equal opportunities to participate. Reforms in the voter registration system and election implementation are crucial steps to ensure that the right to vote, as a fundamental right of citizens, is truly protected and its implementation is guaranteed.

Overall, elections are not merely a technical procedure for selecting leaders, but also a manifestation of popular sovereignty and human rights. The Constitutional Court's decision in Case Number 102/PUU-VII/2009 is clear evidence that protecting citizens' constitutional rights is a top priority in the Indonesian legal system. As emphasized by Posner (2019), the law must function as a tool for achieving justice and social welfare. Therefore, fair, inclusive, and transparent elections are a reflection of the success of Indonesia's democratic system and law enforcement.

RESEARCH METHODS

Research methods are a crucial part of a scientific study because they serve as guidelines for data collection and analysis to address research questions. This research employed a qualitative approach with a case study method. This study aims to analyze and evaluate the implementation of general elections (pemilu) in the context of protecting citizens' voting rights, as stipulated in Constitutional Court Decision Number 102/PUU-VII/2009.

A qualitative approach was chosen because this research focuses on an in-depth understanding of the phenomenon of citizen voting rights protection within the Indonesian legal system. This approach allows researchers to explore legal and social issues from a holistic perspective. Qualitative research emphasizes the meaning, interpretation, and understanding of a phenomenon within a specific context, as seen by Bogdan and Biklen.

Data collection was conducted using several techniques, namely document study, in-depth interviews, and participant observation. The document study included analysis of official documents such as Constitutional Court Decision Number 102/PUU-VII/2009, Law Number 42 of 2008 concerning the Presidential and Vice Presidential Elections, and

Related articles and scientific papers. In-depth interviews were conducted with relevant sources, including constitutional law academics, legal practitioners who have handled election-related cases, General Elections Commission (KPU) officials, and citizens experiencing problems exercising their right to vote. Meanwhile, participatory observation was conducted by following the election process, including updating the voter list, using population

identification in elections, and evaluating the implementation of previous elections.

The data analysis in this study used a thematic analysis approach, which consists of several steps: data reduction, categorization, and interpretation. In the data reduction stage, the collected information was selected and simplified to focus on aspects relevant to the research objectives. Next, relevant data were grouped into main themes, such as the protection of voting rights, the implementation of Constitutional Court decisions, and challenges in the implementation of elections. The categorized data were then interpreted to answer the research questions, based on the theoretical framework and literature review.

This research was conducted at several relevant locations, such as the Constitutional Court, the General Elections Commission (KPU), and election locations in areas experiencing issues related to the final voter list (DPT). The research period lasted six months, encompassing the preparation, data collection, and data analysis stages. To ensure data validity and reliability, this study employed triangulation techniques. Source triangulation was conducted by comparing data obtained from various sources such as official documents, interviews, and observations. Method triangulation was used to integrate various data collection methods to strengthen the research findings. Additionally, peer debriefing was implemented by involving colleagues to review and provide input on the research process and results.

This research was conducted in accordance with a code of research ethics, including obtaining informed consent from interviewees before conducting interviews, maintaining confidentiality of interviewees' identities, and avoiding conflicts of interest throughout the research process. With this structured research approach and method, it is hoped that the results will make a significant contribution to addressing issues concerning the protection of citizens' voting rights and serve as a reference for developing a more inclusive and equitable electoral system in Indonesia.

The Constitutional Court (MK) plays a role as a guardian of the constitution and protector of human rights, as stated in the Constitutional Court's ruling No. 102/PUU-VII/2009. Over time, this role has evolved from merely interpreting the constitution to protecting the fundamental rights of citizens in various contexts, including elections and other disputes, demonstrating the flexibility and significance of the MK in the Indonesian legal system. In the ruling, the MK stated that Article 28 and Article 111 of Law No. 42 of 2008 concerning the Presidential and Vice Presidential Elections are constitutional under certain conditions. The ruling excerpt reads: Citizens who are not registered on the Final Voter List (DPT) may exercise their right to vote by showing a valid Resident Identity Card (KTP) or Passport. This process must be carried out at the Polling Station (TPS) according to the address on the KTP, and registration must be carried out one hour before voting closes (Constitutional Court Decision No. 102/PUU-VII/2009).

This ruling demonstrates that the Constitutional Court plays a role not only as an interpreter of the Constitution but also as an interpreter of laws to protect citizens' constitutional rights. In its capacity as a negative legislator, the Constitutional Court has the authority to annul legal norms that conflict with the constitution. However, it does not have the authority to create new norms.

Satjipto Rahardjo stated that law enforcement that is solely oriented towards the text of the law often ignores aspects of substantive justice. For example, cases in the context of disputes over the Voter List (DPT) demonstrate how the Constitutional Court places substantive justice above mere compliance with administrative procedures. The Constitutional Court's ruling allowing voters with valid identification to still vote even if they are not registered on the DPT is a clear illustration of the application of Rahardjo's view. In this case, the law is used to uphold substantive justice by protecting citizens' constitutional rights. For example, in this ruling, the Constitutional Court places the values of justice above administrative formalities. Rahardjo stated, "Legal truth cannot be interpreted solely as the truth of the law, but must be understood

as the truth of the principles of justice" (Rahardjo, 2016).

Furthermore, the Constitutional Court is taking progressive steps to ensure that citizens' voting rights are not lost simply due to administrative issues. This is also in line with the views of the Constitutional Court.

Richard A. Posner stated that legal interpretation is the path to preserving the objectivity of the law ("Interpretation is the path to saving the law's objectivity"). Before discussing further, it is important to understand that this decision not only impacts the protection of voting rights, but also has a broad influence on democratic practices and election policies in Indonesia. With this perspective, let us examine some of its main impacts: This decision ensures that every eligible citizen can still exercise their right to vote, even if they are not registered on the DPT. This right is guaranteed by Article 27 paragraph (1) of the 1945 Constitution, which states that "Every citizen has the right to equality before the law and government." In this context, the Constitutional Court emphasized that the right to vote is part of the constitutional rights that must be protected.

The Constitutional Court's decision reflects the principles of the rule of law and democracy, as stated by A.V. Dicey, that a state based on the rule of law must guarantee human rights, equality before the law, and the rule of law. By providing a solution to the DPT issue, the Constitutional Court prevented the loss of voting rights that could undermine the legitimacy of the election.

The implementation of this ruling improved the quality of elections in Indonesia. Citizens not registered on the Voter List (DPT) could still exercise their right to vote by showing their identity card. This increased political participation and reduced the potential for conflict arising from DPT administrative issues. According to Muhammad Bahrul Ulum and Dizar Al Farizi, "This Constitutional Court ruling provides assurance for citizens to continue participating in elections and serves as a guideline for future election organizers" (Ulum & Farizi, 2010).

This ruling encourages the public to better understand their constitutional rights. When these rights are threatened, they can file a judicial review with the Constitutional Court. This awareness is crucial for strengthening the checks and balances mechanism in a democratic system. Constitutional Court Decision No. 102/PUU-VII/2009 will likely influence the reform of the election law. The House of Representatives (DPR) is expected to accommodate the principles mandated in this ruling to prevent similar problems from recurring. According to Fauzi Yusuf Hasibuan, "The Constitutional Court's constitutive ruling creates a new legal framework that must be followed by all parties" (Hasibuan, 2011).

Constitutional Court Decision No. 102/PUU-VII/2009 represents a progressive step in protecting citizens' constitutional rights. By allowing voters not registered on the Voter List (DPT) to still exercise their right to vote through population identification,

The Constitutional Court has placed the principle of substantive justice above administrative formalities. This decision not only strengthens democracy and the rule of law in Indonesia but also serves as an important guideline for the implementation of more inclusive and fair elections. As a jurisprudence, this decision provides long-term benefits for the development of election law in Indonesia. Thus, the Constitutional Court has fulfilled its role as guardian of the constitution and protector of human rights in line with the values of democracy and justice.

RESULT AND DISCUSSION

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CONCLUSIONS

Constitutional Court Decision No. 102/PUU-VII/2009 is a progressive step reflecting the institution's commitment to substantive justice and the protection of citizens' constitutional rights. By providing a solution for voters not registered on the Permanent Voters List (DPT), the Constitutional Court has demonstrated that the law is not merely rigid but also adaptable to societal needs. This decision not only restores individual voting rights but also emphasizes the importance of justice over administrative formalities, as advocated in Satjipto Rahardjo's theory of substantive justice. This ruling also has a positive impact on democracy and the legal system in Indonesia. In addition to protecting constitutional rights, this decision raises public awareness of the constitution, strengthens the principle of checks and balances, and encourages reform of election-related policies and regulations. Thus, the Constitutional Court has fulfilled its role as a guardian of the constitution, responsive to societal dynamics.

However, the implementation of this decision requires oversight and commitment from various parties, including the government, election organizers, and the legislature. Updating election laws and improving administrative governance are crucial to ensuring citizens' constitutional rights remain protected without creating loopholes that could be abused.

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