FULFILLMENT OF PASSIVE VOTING RIGHTS OF COASTAL COMMUNITIES IN REGIONAL LEGISLATIVE ELECTIONS IN INDONESIA

aDewi Haryanti, bLazarus Tri Setyawanta, cOksep Adhayanto, dMarnia Rani, eIrman

ABSTRACT

Objective: The limitations of coastal communities are an obstacle to fulfilling passive voting rights in elections. It needs a concept to answer these problems. The purpose of this article is to give birth to the concept of fulfilling the passive voting rights of coastal communities as candidates for regional legislatures.

Method: this normative legal research uses legal, principled, and conceptual approaches. Data are sourced from primary legal materials, secondary legal materials, and tertiary legal materials which are analyzed in a qualitative descriptive manner.

Result: the guarantee of universal suffrage is regulated in Article 27 of the Indonesian Constitution, Constitutional Court Decision Number 011-017/PUU-I/2003 and Article 2 of the Universal Declaration of Human Rights which guarantees respect for human rights without discrimination. The limited social life of coastal communities, which are classified as marginalized groups, is not a reason for not being able to fulfil their rights to become candidates for legislative members. Affirmative policies are needed to obtain equal opportunities to achieve equality and justice in the fulfilment of their rights.

Conclusion: The presence of law is needed to help the process of changing society towards renewal. Three things are needed to fulfil the passive voting rights of coastal communities, namely the provision of affirmative policies, the pattern of cooperation of all stakeholders, and the improvement of human resources.

Keywords: passive suffrage, coastal communities, legislative elections.

Received: 01/04/2024
Accepted: 02/26/2024
DOI: https://doi.org/10.55908/sdgs.v12i3.3297

a Lecturer of Law Study Program, Raja Ali Haji Maritime University, Tanjungpinang,
E-mail: dewiharyanti@umrah.ac.id Orcid: https://orcid.org/0009-0003-9390-6433

b Professor of Faculty of Law, Diponegoro University, Semarang, E-mail: syclosundip@yahoo.com
Orcid: https://orcid.org/0000-0002-1110-0280

c Lecturer of Law Study Program, Raja Ali Haji Maritime University, Tanjungpinang,
E-mail: adhayantooksep@umrah.ac.id Orcid: https://orcid.org/0000-0002-1110-0280

d Lecturer of Law Study Program, Raja Ali Haji Maritime University, Tanjungpinang, E-mail: marniarani@umrah.ac.id
Orcid: https://orcid.org/0000-0001-7406-7433

e Lecturer of Law Study Program, Raja Ali Haji Maritime University, Tanjungpinang, E-mail: irman@umrah.ac.id
Orcid: https://orcid.org/0000-0002-8775-7035
RESPECTO DE DEREITOS DE VOTO PASSIVO DAS COMUNIDADES COSTEIRAS NAS ELEIÇÕES LEGISLATIVAS REGIONAIS NA INDONÉSIA

RESUMO

Objetivo: As limitações das comunidades costeiras constituem um obstáculo ao exercício do direito de voto passivo nas eleições. A sua ação precisa de um conceito para responder a esses problemas. O propósito deste artigo é dar origem ao conceito de cumprimento dos direitos de voto passivo das comunidades costeiras como candidatos a legislaturas regionais.

Método: esta pesquisa legal normativa usa abordagens legais, de princípios e conceituais. Os dados são obtidos de materiais legais primários, materiais legais secundários e materiais legais terciários que são analisados de uma maneira descritiva qualitativa.

Resultado: a garantia do sufrágio universal está regulamentada no artigo 27 da Constituição da Indonésia, na Decisão 011-017/PUU-I/2003 do Tribunal Constitucional e no artigo 2 da Declaração Universal dos Direitos do Homem, que garante o respeito pelos direitos humanos sem discriminação. A vida social limitada das comunidades costeiras, que são classificadas como grupos marginalizados, não é razão para não poderem cumprir os seus direitos de se tornarem candidatos a membros legislativos. São necessárias políticas afirmativas para obter igualdade de oportunidades para alcançar igualdade e justiça no cumprimento de seus direitos.

Conclusão: A presença da lei é necessária para ajudar o processo de mudança da sociedade rumo à renovação. Três coisas são necessárias para cumprir os direitos de voto passivo das comunidades costeiras, nomeadamente a provisão de políticas afirmativas, o padrão de cooperação de todas as partes interessadas e a melhoria dos recursos humanos.

Keywords: sufrágio passivo, comunidades costeiras, eleições legislativas.

CUMPLIMIENTO DEL DERECHO DE VOTO PASIVO DE LAS COMUNIDADES COSTERAS EN LAS ELECCIONES LEGISLATIVAS REGIONALES EN INDONESIA

RESUMEN

Objetivo: Las limitaciones de las comunidades costeras son un obstáculo para el cumplimiento de los derechos de voto passivo en las elecciones. Necesita un concepto para responder a estos problemas. El propósito de este artículo es dar a luz al concepto de cumplir con los derechos de voto passivo de las comunidades costeras como candidatos a las legislaturas regionales.

Método: esta investigación jurídica normativa utiliza enfoques legales, de principios y conceptuales. Los datos se obtienen de materiales legales primarios, materiales legales secundarios y materiales legales terciarios que se analizan de manera cualitativa y descriptiva.

Resultado: la garantía del sufragio universal está regulada en el Artículo 27 de la Constitución de Indonesia, la Decisión del Tribunal Constitucional Número 011-017/PUU-I/2003 y el Artículo 2 de la Declaración Universal de Derechos Humanos que garantiza el respeto de los derechos humanos sin discriminación. La limitada vida social de las comunidades costeras, que se clasifican como grupos marginados, no es una razón para no poder cumplir con sus derechos de convertirse en candidatos a miembros legislativos. Se necesitan políticas afirmativas para obtener la igualdad de oportunidades y lograr la igualdad y la justicia en el cumplimiento de sus derechos.

Conclusión: La presencia de la ley es necesaria para ayudar al proceso de cambio de la sociedad hacia la renovación. Se necesitan tres cosas para cumplir con el derecho de voto passivo de las
comunidades costeras, a saber, la provisión de políticas afirmativas, el patrón de cooperación de todas las partes interesadas y la mejora de los recursos humanos.

Palabras clave: sufragio pasivo, comunidades costeras, elecciones legislativas.

1 INTRODUCTION

A state that claims to be a state of the law has become a must to be able to guarantee the fulfilment of people's human rights. It is appropriate for these guarantees to be regulated and poured into the country's constitution. It is inseparable from the Indonesian state which constitutionally recognizes as a state of law, of course, it also has a responsibility for it. State recognition of human rights and protection of the fulfillment of human rights has been expressly stated in the Constitution of the Republic of Indonesia Year 1945.

Indonesia is an archipelagic country (see Article 25A of the 1945 Constitution of the Republic of Indonesia). From data from the Coordinating Ministry for Maritime Affairs and Investment of the Republic of Indonesia in 2020, Indonesia's ocean area is larger than land, reaching 5.8 million km² or about more than 70% of the entire territory of Indonesia. There are 17,509 islands so there are people who are in coastal areas and far from urban areas and even become part of marginalized communities. The social and economic life of coastal communities is different from urban communities. In general, urban people have various jobs, namely working as employees and government officials, entrepreneurs, employees of a company and other jobs that require special skills or with the condition that graduates from higher education or jobs that do not require higher education requirements. In coastal areas, the work of people tend to be fishermen, although some work as government employees in villages or sub-districts, as traders, farmers and other jobs. Not all villages in coastal areas are found by local people who work as officials such as members of the Regional People's Representative Council or members of regional legislatures. Even though the Indonesian constitution has regulated the right to work and decent livelihood for every citizen (see Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia). There should be equal distribution of these rights so that they can also be felt by coastal communities. It is a big task for the state to think about and fulfil the rights of coastal communities in fulfilling equal rights with people in urban areas, especially to become candidates for regional legislatures or...
participants elected in regional legislative elections. Legislative elections are a means of democracy in finding candidates for legislative members, and people in the regions have the right to participate either as voters or elected in elections.

Countries that embrace constitutional democracy must be implemented by the constitution (Zoelva, 2022). The Indonesian Constitution is an elaboration of the Pancasila Ideology which has five principles, namely Indonesian nationalism, internationalism or humanism, consensus or democracy, social prosperity, and believing in God culturally. This ideology was extracted by Soekarno from traditional Indonesian values (Arizona, 2019) which demanded the realization of a democratic constitutional state, namely by juxtaposing the principle of the rule of law with harmonious and complementary people's sovereignty (Sudrajat, 2018). In addition, Indonesia as a state of law (see Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia) ensures equality before the law and equal opportunity for its citizens. It is inseparable from the lives of coastal communities, especially fishermen groups whose social lives are far different from urban communities so they lack the confidence to participate in the fulfilment of passive voting rights in elections, namely the right to participate as candidates for regional legislative members. For this reason, it is necessary to have government concepts and policies in responding to this. The author seeks to design a concept in fulfilling the passive suffrage of coastal communities based on the theory of development law.

2 PROBLEM STATEMENT

Based on the background description above, the author draws one formulation of the problem, namely how is the concept of fulfilling passive voting rights of coastal communities as candidates for regional legislative members?

3 METHOD

This is a type of normative legal research to find legal principles in dealing with legal issues (Marzuki, 2005). In line with Serfontein's opinion that legal research is carried out in depth to produce conclusions and recommendations in the form of future legal improvements (Susanti & A'an). The approach used is a) the statute approach,
including the 1945 Constitution of the Republic of Indonesia, especially regarding human rights, the Human Rights Law, the Election Law and other related laws and regulations; b) the basic approach is aimed at exploring the ideal elements that produce legal rules, such as the principle of the rule of law and the principle of equality and justice; and c) conceptual approach (conceptual approach) to find ideas that give birth to the concept of fulfilling the right to vote for coastal communities as candidates for regional legislatures in Indonesia. The data sources used are secondary data in the form of a) primary legal materials extracted from the provisions of laws and regulations and other related legal sources; b) secondary legal materials obtained from the results of previous research or studies and other legal references and including relevant but only facultative non-legal materials such as sociology and coastal communities, and; c) tertiary legal materials obtained from the Great Dictionary Indonesian and so on. Data analysis is carried out in a qualitative descriptive manner by providing an overview or exposure to the object of research.

4 RESULTS & DISCUSSION

4.1 SUFFRAGE AS A HUMAN RIGHT OF CITIZENS

Suffrage is the right of citizens to participate in elections consisting of active voting rights and passive voting rights (Kansil, 1985). Active voting rights are the right to vote for candidates while passive voting rights are the right to be elected as candidates or election participants (Fahmi, 2017). What is meant as active voting rights in this paper is the right to participate in elections, while what is meant as passive voting rights is the right to participate as a candidate for regional legislative members. Although the author alludes to active voting rights, it should be mentioned that the focus of the author's study is passive voting rights for coastal communities in regional legislative elections.

As a legal state, the conditions for obtaining the right to vote are regulated in law. The conditions for obtaining active voting rights or as voters and conditions for passive voting rights or being legislative candidates in regional legislative elections can be seen in the general election law. The requirements to become a voter are Indonesian citizens at least seventeen years old on polling day or at least married or have been married, not being deprived of political rights by the court or state, not being members of the
Indonesian National Police and Army, and registered in the electoral register (see Articles 198 – 200 of Law Number 7 of 2017). Voters for regional legislative elections are limited to regional people who live or are domiciled according to the constituency only, meaning that for the election of candidates for the Province X legislature, only the people of districts or cities in Province X are entitled to vote in the area. Likewise, with the election of candidates for members of the district or city legislature, only sub-district people who are domiciled in the district or city that holds elections are entitled to vote to vote. Unlike the case with passive voting rights, where there are no restrictions related to the domicile of prospective regional legislative members because to be able to become a candidate for regional legislative members must go through the carrying political party. The law authorizes political parties to recruit candidates for regional legislative members who are then registered with the General Elections Commission according to their level in the region, such as registration for candidates for provincial legislatures then registered with the Provincial Election Organizing Commission and candidates for district or city legislatures are registered with the District or City Election Organizing Commission.

The right to vote is a human right addressed to citizens to be elected and vote in general elections as stipulated in the law” (See Article 43 paragraph (1) of Law Number 39 of 1999 concerning Human Rights). The implementation of human rights by law is in line with the principles of the rule of law and democracy as mandated by the Indonesian constitution (Hanara, 2018). The rule of law in principle is to place the law in the highest position in law enforcement efforts, to provide a sense of peace and peace in people's lives with the guarantee of fulfilment of these rights.

Constitutionally, the guarantee of universal suffrage is regulated in Article 27 of the Constitution of the Republic of Indonesia Year 1945 in paragraph (1) which states that "all citizens have equal standing in law and government and are obliged to uphold the law and government with no exception". Furthermore, paragraph (2) states that "the right of every Indonesian citizen to a decent life for humanity". If it is related to the right to vote based on the article, coastal communities are also part of the community group that must be guaranteed the fulfilment of their voting rights, this is to fulfil what is mandated in paragraph (2) to realize a decent life for humanity.

In addition, from what was described above, the Constitutional Court also gave an opinion as outlined in Constitutional Court Decision Number 011-017 / PUU-I / 2003 regarding the guarantee of the constitutional right of citizens to vote and be elected, so
the restriction on this right is a violation of the human rights of citizens. Based on the National Law Development Agency, the constitutional court functions as a guardian of the constitution, which is authorized to examine laws and regulations that are contrary to the constitution, for example, related to discrimination which is a central issue in several cases before the Indonesian Constitutional Court (Bisariyadi, 2018). In addition, empirically, the constitutional court has also shown its consistency in upholding the constitutional values outlined in the Constitution, as the results of the study of Radian Salman and Rosa Ristawati, that the Constitutional Court's decision shows its constitutional commitment to preserving democratic values, protection of minorities-marginalized against dominant-majority interests (Salman &; Ristawati, 2020).

The guarantee of human rights is not only a concern of one country but also an international concern. Internationally, the guarantee of the human right to the absence of discrimination can be seen in Article 2 of the Universal Declaration of Human Rights which guarantees respect for human rights in the absence of discrimination (United Nations General Assembly, 1948). This is in line with the principle of human rights, namely the principle of equality which puts all people born free and has equality in human rights, the principle of discrimination which is one of the important parts of the principle of equality where if all people are equal then there should be no discriminatory treatment, and the principle of positive obligations of the state to protect certain rights. So it is very clear that the guarantee of human rights is not only a local concern but also a national and international concern and it is strongly emphasized that there is no discrimination in the fulfilment of that right.

4.2 PASSIVE SUFFRAGE OF COASTAL COMMUNITIES

Before explaining further regarding passive suffrage, it is necessary to first get to know coastal communities. Coastal communities are representative of farming village and isolated village (small island community) community types. Redfield gives the characteristics of coastal communities that have a distinctive identity, consisting of several residents with a fairly limited number so that they still know each other as individuals with personality, are uniform with limited differentiation, and the needs of the population are very limited so that all can be met alone without depending on the outside market. The life of coastal communities is very different from urban communities which
tend to be more individualist and have diverse jobs, while coastal communities are still thick in their family attitudes. As stated by Redfield, coastal communities have their own identities and are familial so that they know each other in a community (Satria, 2015).

The life of coastal communities in Indonesia also has diversity and different typologies, between coastal communities in Pantura Java with Riau Islands or Papua as well as in other provincial areas. There is even the life of sea tribes who have a nautical soul that makes the sea a place to make a living, and there are even still those who make canoes as homes to carry out all life activities. But now the majority of sea tribes already have houses around coastal areas facilitated by local governments, such as in Panglong Village, Bintan Regency, and Riau Islands Province. They form fishing communities and coexist in one family bond. Their occupation tends to be as traditional fishermen who are very understanding and adapted to the sea. Likewise, the life of the sea tribe residents in Indragiri Hilir is catching fish, shrimp, and shellfish, and looking for mangrove wood, even wailing by two fishermen with a profit-sharing method against net income. In Pekalongan, the life of coastal communities have used purse seine or mini purse seine boats so that there are no more coastal communities who use boats without motors to make a living. The typology of coastal communities is formed based on the level of economic development, social systems and ecosystem conditions.

In general, the participation of coastal communities in fulfilling voting rights is still limited to active voting rights and only to certain stages such as the voting stage in each election activity as from the results of previous research in Riau Islands Province which concluded that the voter participation rate in the 2019 legislative election had reached the national target of 77.5% but only limited to participation in the voting stage because they were more Focus on making a living. (Haryanti et al., 2022) Meanwhile, the fulfilment of passive voting rights has not been a concern because of their lack of confidence to compete as candidates for legislative members.

Before the author offers the concept of fulfilling passive voting rights of coastal communities as candidates for regional legislatures based on the theory of development law, it is important to understand the theory of development law pioneered by Mochtar Kusumaatmadja. His conception of law inserted an approach of political orientation as well as the foundations of legal philosophy and sociology. His thoughts were influenced by legal scholars from the United States, namely Myres Mc Dougal and F.S.C. Northrop (Praja, 2020). In addition, it was also influenced by the way of thinking of Herold D.
Laswell and the legal theory of Roscoe Pound, but still adapted to Indonesian conditions. The conception of law according to Mochtar, is not only limited to the principles and rules that govern human life in society but also includes institutions and processes in realizing the enactment of rules in reality. Mochtar's Development Law theory describes a pattern of cooperation involving all stakeholders in the social community. According to him, the understanding of the law is not just a tool but a means for community development, where order and order in development efforts are necessary, and the law is expected to direct human activities in the direction desired by development and renewal.

Still, according to Mochtar, the law serves as a tool to maintain order in society, whose function is conservative, namely the law is to maintain and maintain what has been achieved. Furthermore, it is also said that a society that is developing means a society that is changing rapidly, so the law is not enough to have that function alone but must also be able to help the process of community change (playing a role in the renewal process (Kusumaatmadja, 2002). Through Mochtar's thoughts, it is hoped that a concept can be produced to realize development and give birth to renewal in the social life of coastal communities in the form of fulfilment of passive voting rights in regional legislative elections.

4.3 PHILOSOPHICAL AND JURIDICAL BASIS FOR THE FULFILLMENT OF PASSIVE SUFFRAGE OF COASTAL COMMUNITIES

Based on the previous description and the mandate of the constitution, there is a state duty to plan produce and implement policies to fulfil the passive suffrage of coastal communities. In line with this, as well as to avoid the failure of the state to protect some of the human rights of its citizens as Fukuyama's idea regarding the lack of statehood ideals can be seen from the failure of democratic regimes to protect human rights, for that the state must have the ability to plan and implement (Mutaqin, 2016). Thus, there is a need for the concept of fulfilling passive suffrage of coastal communities designed and implemented by states that claim to be the state of law.

Indonesia as a state of law is also an integralist country (Sugiarto & Nurita, 2018). The integralist state leads to the principle of the family which is described as the relationship between the state and the people which is analogous to the state as the father and the people as children (Ulum & Hamida, 2018). The state or father has a
responsibility to do justice and give the best for all his children. Fathers must be wise and give strength to their weak children so that the child can also feel the same as his strong children. Fathers must be able to design and give birth to a policy to implement so that it is hoped that the child can feel that he can also enjoy what is felt by his other siblings. That is, a state that has an integral rationale does not only side with one particular group but guarantees the fulfilment of the rights of its citizens and the entire life of the nation as an inseparable union.

Constitutionally, the Indonesian state has set the rationale of an integral state as stated in Article 28H paragraph (2) of the Constitution of the Republic of Indonesia Year 1945 where everyone has the right to facilities and special treatment to obtain equal opportunities and benefits to achieve equality and justice. This special treatment is an effort to compensate for the weaknesses contained in the state, especially for its citizens who have limited abilities or belong to certain groups. An example of a policy that has been born and applied to one particular group in Indonesia is the 30% quota for women to participate in politics. Referring to the juridical foundation, can also be applied in fulfilling the passive voting rights of coastal communities in regional legislative elections to give birth to a concept that is in line with the theory of development law.

In the Indonesian dictionary, the meaning of a concept is an idea or understanding abstracted from concrete events. The concrete event that the author refers to is the lack of fulfilment of passive voting rights of coastal communities in regional legislative elections caused by their limitations as previously described. In this case, the author seeks to offer a concept of fulfilling the passive voting rights of coastal communities in regional legislative elections. In line with Mochtar's theory of development law which states that law is not just a tool but a means for community development and serves to assist the process of community change or play a role in the process of renewal. If it is related to concrete events that the author conveys, the state has a responsibility to produce a policy to help the process of change in the social and economic life of coastal communities to equalize development. The meaning of development can be seen from the opinions of Siagian and Bintoro Tjokroamidjojo. According to Siagian (1994), development is a nation-building effort, which is an effort to a series of planned growth and change efforts carried out consciously by the government, nation and state to lead to modernity. Development according to Bintoro is a process of planned social change to advance and prosper and even improve the quality of human life (Kartono &; Nurcholis, 2016). Thus,
the presence of law is needed to realize the equitable development in question. As stated by Mochtar law is not merely a tool but a means for the development of society, where order and order in development efforts are necessary in directing human activities in the direction desired by Development. To equalize development, the cooperation of all parties in the life of the nation and state is needed. Mochtar's development legal theory describes the pattern of cooperation by involving all stakeholders contained in the social community. This view can be applied in efforts to fulfil passive voting rights of coastal communities by building patterns of cooperation between the government, political parties and communities.

The social living conditions of coastal communities should not make excuses for limitations to fulfil their rights to be candidates for legislative members in elections. A policy is needed to obtain convenience and special treatment in realizing a sense of justice as stipulated in Article 28H paragraph (2) which states that "Everyone has the convenience to obtain equal opportunities and benefits to achieve equality and justice". The word "ease" contained in the sound of the article can be interpreted that special treatment is allowed to obtain equal opportunities and benefits to achieve equality and justice, as long as it does not contradict the law.

If analogous to special treatment or affirmative action in the form of granting a quota of 30% (thirty per cent) for women's representation in the establishment and formation of political parties and other related provisions as outlined in the law (see Article 2, Article 20 and Article 51 of Law Number 2 of 2008 and Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties). Likewise, the election law also regulates the inclusion of women's representation as a selection team for candidates for KPU members (see Article 22 paragraph (2) of the Election Law), as members of the District Election Committee and Voting Committee at the village level and the Polling Organizing Group at the polling place, although not mandatory but only "considerate" (see Article 52 paragraph (3), Article 55 paragraph (3) and Article 59 paragraph (4) of the Election Law. The requirement for registration of a political party as an election participant must also attach a certificate from the central management of the political party regarding the participation of at least 30% of women's representation (see Article 117 letter d of the Election Law). Likewise, the list of candidates registered with the election organizer as participants in the election must also contain women's representation (see Article 245 of the Election Law).
Reflecting on the affirmative form of women's representation above, of course, it can also be applied to the fulfillment of passive suffrage rights for coastal communities which must be viewed proportionally by not overriding people's sovereign rights. The neglect of the people's right to elect their representatives is an injury to democracy and people's sovereignty (Kurniawan, 2016). Likewise, the neglect of the right of coastal communities to fulfill passive voting rights in regional legislative elections. Thus, regulations are needed from the government related to the fulfillment of passive voting rights of coastal communities in legislative elections to avoid and eliminate indications of discriminatory actions or lack of government attention in overcoming the limitations of coastal communities in fulfilling these rights. The elimination of discriminatory acts is not only a country's concern but also an international concern. The efforts of the international community in eliminating discriminatory acts, and placing all people in an equal position without distinction of gender, ethnicity, religion, and nation as formulated in Article 1 of the UDHR of 1948 which reads that "Everyone is born free and has equal dignity and rights. They are endowed with reason and conscience, and should associate with each other in a spirit of brotherhood." Furthermore, Article 2 of the UDHR reaffirms that "Everyone has the right to all the rights and freedoms outlined in this statement, without exception, such as ancestry, colour, sex, language, religion, political or other stance, nationality or social origin, property rights, birth status or other social status".

The Indonesian Constitution guarantees the fulfillment of the rights of every citizen and provides opportunities for every citizen to have recognition, guarantees, protection and fair legal certainty. More details can be seen in Article 28D paragraph (1) of the Constitution of the Republic of Indonesia Year 1945. And further emphasized in Article 28D paragraph (3). Based on these provisions, it is the legal basis for every Indonesian citizen to have the freedom to participate as candidates (who are chosen) and as voters (who choose) in determining their representatives, including to sit in the legislature conducted through elections (Nasution &; Marwandianto, 2019).

The law regulates the requirements and procedures for submitting legislative candidates that must be met in elections (see Articles 240 to 250 of Law Number 7 of 2017 concerning Elections and their explanations). The requirements to become a candidate for legislative members as stipulated in Article 240 of the Election Law are a) at least 21 years old for candidates for the central legislature, provincial legislature or district or city legislature (which can be seen from the identity card of an Indonesian
citizen); b) having piety to God Almighty means that the candidate must obey to carry out his religious obligations; c) reside in Indonesia (except for prospective candidates who for some reason at the time of registration of candidates are residing abroad, completing the requirements for a certificate from the local State Representative of the Republic of Indonesia); d) be able to speak, read, and/or write in Indonesian (based on the explanation of the law, this requirement is not intended to restrict the political rights of citizens with disabilities who have the ability to perform their duties as members of the legislature; e) have at least a minimum education of a senior high school or madrasah Aliyah or vocational high school or madrasah Aliyah vocational or other equivalent school (other equivalent schools that referred to here are such as Extraordinary High Schools, Salafi Islamic Boarding Schools, Christian Theological High Schools, and Seminary Schools) which can be seen from the proof of graduation of the last education such as diplomas or graduation certificates or other certificates legalized by the Education unit or secondary education program (attach proof of graduation in the form of legalized photocopies); f) be loyal to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, and Bhinneka Tunggal Ika; g) has never served a prison sentence for having committed a crime with a minimum threat of five years and an exception for candidates who openly and honestly disclose to the public that they are ex-criminals (by attaching a sufficiently stamped affidavit); h) physically healthy (disability is not included in the category of health problems) and spiritual and free from drug abuse (by attaching a health certificate from a qualified doctor, puskesmas, or government hospital and a certificate free from drug abuse; i) registered as a voter in the voter list (judging from the proof letter of having been registered as a voter); j) willing to work full-time (willing not to pursue other work that may interfere with his duties and obligations as a member of the legislature) by attaching a signed statement letter on paper with sufficient stamp; k) not to serve as regional head or deputy regional head or resign as regional head, deputy regional head, state civil apparatus, member of the Indonesian National Army, member of the Indonesian National Police, directors, commissioners, supervisory board and employees of state-owned enterprises and/or regional-owned enterprises, or other entities whose budget is sourced from state finances stated by an irrevocable resignation letter (from the time the candidate is determined as a candidate in the list of permanent candidates, the person concerned does not have the status and rights and authority as the previous official); l) willing not to practice as a public accountant,
advocate, notary, land deed official, or not to do work providing goods and services related to state finances and other work that may cause conflicts of interest with duties, authorities, and rights as members of the legislature (by attaching a signed statement letter on sufficient stamped paper); m) willing not to hold concurrent positions as other state officials, directors, commissioners, supervisory boards and employees in both state-owned and regional-owned enterprises and other entities whose budgets are sourced from state finances; o) be a member of a political party participating in the election (as evidenced by an identity card of a member of the political party participating in the election); and p) may only be nominated in one representative body in one constituency (by attaching a signed affidavit on sufficient stamped paper).

The procedure for submitting Legislative Candidates can be seen in Articles 241 to Article 247 of the Election Law, where political parties will select prospective legislative candidates democratically and openly by the articles of association, bylaws or internal regulations of political parties participating in the election. The candidates are arranged in a list of candidates containing a maximum of 100% (one hundred per cent) of the total seats in each constituency and then determined by their respective political parties (determination of central legislative candidates by the administrators of political parties participating in the central elections, provincial legislative candidates by the administrators of political parties participating in provincial elections, and district or city legislative candidates determined by the administrators of political parties participating in the regional elections county or city). The law stipulates that the list of candidates contains a female representation of at least 30% (thirty per cent) of the specified number (see Article 245 of Law Number 7 of 2017). The names of candidates on the list of candidates are arranged by sequence number and in every three candidates there is at least one female candidate accompanied by a recent self-portrait. The list of candidates for the central legislature is signed by the chairman of the political party or other name and the secretary general of the political party or other name, the list of candidates for the provincial legislature is signed by the chairman or other name and the secretary or other name, and the list of candidates for the district or city legislature is signed by the chairman or other name and the secretary or other name. Furthermore, the list of candidates that have been signed is submitted to the KPU according to their level. Submission of the list of candidates for the legislature no later than nine months before the day of voting (see Article 247 paragraph (2) of the Election Law). It should be understood that political
parties that conduct recruitment selection for legislative candidates are prohibited from receiving remuneration in any form (see Articles 242 & 228 of the Election Law). The recruitment of prospective legislative candidates is also regulated in the Law on Political Parties (see Article 29 of Law Number 2 of 2011 concerning Amendments to Law Number 2 of 2008 concerning Political Parties), where recruitment is carried out through democratic and open regeneration selection by the Articles of Association and Bylaws and other laws and regulations by considering at least 30% (thirty hundredths) of women's representation. Furthermore, the determination of the recruitment is carried out by the decision of the political party management at its level.

An example of the pattern of recruitment of legislative candidates by political parties can be seen from the results of Kur Junaidi and Marwan Susanto's research conducted by the Great Indonesia Movement Party in the Kapuas Regency. The results of his research concluded that a) the recruitment of prospective legislative candidates was carried out through two methods, namely closed and open. Privately by using a passive stelsel in the form of appointing figures from cadres of the Great Indonesia Movement Party to become legislative candidates based on considerations of their ability and loyalty to the party. In the open method using socialization media in the form of the party's official website through http://partaigerindra.or.id links and also issuing announcements in print and electronic mass media that are open to the public and in this case, the party also makes socialization efforts to notify and invite the public to participate in legislative election activities. (Junaidi & Marwan, 2019) Still from the results of the study, it is explained that in the initial selection, parties look at the requirements and conditions as stipulated by the election law for prospective candidates to be registered with the General Elections Commission as candidates for legislative members. The party does not set a percentage for candidates who come from cadres or non-cadres but based on quality, ability and loyalty to the party. However, candidates from the cadre element have priority to be placed in the first sequence number. This is done through several tests that have been set by the party including general interviews on all matters related to the duties of the legislative council and also conducting psychological tests.

Another example related to the pattern of recruitment of prospective legislators can be seen from the results of research by Hendri Ari Wibowo and friends conducted by the Indonesian Democratic Party of Struggle in Semarang ahead of the 2014 elections. It was explained that the recruitment pattern carried out by the party at the behest of the
Central Management Board of the Indonesian Democratic Party of Struggle based on Decree Number: 061/TAP/DPP/III/2013 concerning Procedures for Networking, Screening, Determining and Registering Candidates for Legislative Members in the 2014 General Election through the process of registration, networking, administrative tests (psychological tests, assignments and understanding of party ideology) and the recruitment process applies to both internal and external parties. (Huda, Mi’rojul, 2013)

The results of the study also explain the type of recruitment carried out by the Indonesian Democratic Party of Struggle, namely 1) the type of the participant is the dominant type that is almost used by all political parties, where strong supporters and high loyalty to the party can be recruited for strategic positions; 2) the compartmentalization type is a type that is an added value for prospective candidates, namely the recruitment process based on one’s educational background and experience or socio-political activities; 3) The type of immediate survival is a recruitment process based on the authority of the party leader without regard to the ability of the person to be recruited but at the discretion of the party leader.

From the two examples of recruitment patterns for legislative candidates by political parties mentioned above, there are similarities, namely opening opportunities for prospective candidates who come from internal parties and external parties. However, the fact is that not everyone can meet the requirements because of limitations that become obstacles to advancing as candidates for regional legislatures. As is the case for coastal communities, with limited social and economic life, it is one of the obstacles to being able to pass the selection of candidates for regional legislative members. To run only as candidates, they lack confidence even though the law stipulates provisions prohibiting political parties as organizations authorized to select candidates for legislative members to receive rewards even in any form in the process of nominating legislative members (see Articles 241 to 242 of the Election Law). As a state of law, it is the responsibility of the state to be present in overcoming these obstacles to provide a sense of justice for citizens to fulfil their human rights in the political field, especially related to passive suffrage.
4.4 THE CONCEPT OF FULFILLING PASSIVE SUFFRAGE OF COASTAL COMMUNITIES IN LEGISLATIVE ELECTIONS

The philosophical and juridical rationale associated with development law theory as described above is the basis for giving birth to a concept in fulfilling the political rights of citizens or residents, especially related to voting rights for coastal communities in regional legislative elections. The fulfilment of passive voting rights in elections is based on the ability of prospective candidates to get the most votes from voters at the voting stage. Political parties will make candidates for their members who are considered to have this ability to be registered as candidates for legislative members. Meanwhile, the condition of coastal communities that tend to have limitations makes it difficult to be included as a candidate for legislative members even as a candidate is very unlikely. However, limitations should not be a barrier for a person to get his rights. Even international law regulates this, as stated in Article 25 junto Article 47 of Law Number 12 of 2005 concerning the Ratification of the International Covenant On Civil And Political Rights.

Based on the Theory of Development Law by Mochtar who understands that law is not only a means for community development but is also expected to direct human activities desired by development, on the contrary, a society that is developing or that is changing rapidly, the law does not have a conservative function or as a tool to change order in society alone but must also be able to help the process of community change meaning that it can play a role in the renewal process. The pattern of cooperation by involving all stakeholders is emphasized in this theory. From this theory, several things can be drawn as a rationale to give birth to the concept that the author offers, namely:

4.4.1 Affirmative policy provisions as outlined in the law and its implementing regulations

One of the framers of the 1945 Constitution, Muh. Yamin stated that "The Republic of Indonesia is a state of law (government of laws) where written justice applies..." (Gautama, 1973). Furthermore, the formulation has been stated in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia Year 1945. As a state of law, all matters related to people's lives must be regulated based on laws and regulations.
This is by the mandate of Article 26 paragraph (3) of the Constitution of the Republic of Indonesia Year 1945 that those relating to citizens and residents are regulated by law. Coastal communities are also part of Indonesian citizens and residents, so the fulfilment of their passive voting rights should also be regulated in or by law. The meaning of the phrase "in-law" can mean that related provisions can be incorporated into a law that not only regulates the issue of passive suffrage in elections but can regulate other things outside it. In contrast, the meaning of the phrase "regulated by" means that the relevant provisions are regulated separately by a law. Upholding and protecting the rights of coastal communities must be by the principles of a democratic rule of law whose implementation is guaranteed, regulated, and outlined in legislation as stipulated in Article 28I of the Constitution of the Republic of Indonesia.

To fulfil the passive suffrage of coastal communities in legislative elections can be done through affirmative action. The word affirmative in the Indonesian dictionary means "to strengthen or validate". By analogy, the meaning of affirmative action can be seen in Junita Budi Rahman's work which cites Article 4 of the UN CEDAW, namely temporary special measures taken to achieve equal opportunities and treatment between men and women, this is as a special action of correction and compensation from the state for gender injustice against women (Rahman, 2004). If it is associated with a policy or action to fulfil the passive suffrage of coastal communities in legislative elections, affirmative action can contain the meaning of strengthening or ratifying government policies or actions to fulfil the rights of these communities. The affirmative action in question is to place prospective legislative members from coastal communities in the context of equitable distribution of both physical and non-physical development (human resources) as one element in registering legislative candidates at the General Election Commission in regional legislative elections, regardless of whether the candidate is ultimately elected or not as the winner. The practice of affirmative action on the fulfilment of passive suffrage has been applied in the fulfilment of women's political rights, so it can also be applied to coastal communities. If the percentage of women's representation is 30%, then for coastal community placement it can be 20%. The premise of 20% is for there to be at least 50% representation of certain groups who are marginalized because of their limitations. If only one person is a coastal community who is placed in the political scene or election activities involving the government, election organizing organizations, political parties participating in the election and the community, it is hoped that it will be
a motivation for others to generate a sense of self-awareness. It can also create equitable development and renewal in the constitution.

4.4.2 The pattern of cooperation of all relevant stakeholders

The pattern of cooperation is a form of effort carried out by all interested parties in their respective roles in the context of fulfilling the passive voting rights of coastal communities in legislative elections in the regions as a directed whole. The intended parties are: a) the government as a policy maker which is further also poured into regulations or laws and regulations (as a regulator); b) The General Elections Commission as the implementing agency for elections and the Election Supervisory Agency as the party that oversees the implementation of elections to run by laws and regulations (as the organizer of elections); c) political parties as organizations authorized to recruit and register candidates with the Election Administration Commission (as election participants); d) the community as actors or figures who are ready to participate or participate in elections and also (as participants in elections).

4.4.3 Improvement of human resources

Regional legislative elections are a means of democracy in finding and producing candidates for legislative members in the regions. Many parties were involved in its implementation apart from candidates participating in the election. For the election to run smoothly, it requires a commitment of cooperation from all interested parties in the form of business carried out through a division of labour that is all directed to achieve the expected goals. The intended goal is to produce candidates for legislative members who are good and can carry out the role of representatives of the people. Therefore, the law provides quite strict requirements in screening candidates who are included as participants who will compete in the election. The fact that coastal communities have limited ability to compete, so that the majority of participants are controlled by certain groups means that it is not evenly distributed to coastal areas. The constellation of power in Indonesia gives us an idea of the 'tradition of political hegemony' (Hastuti, 2019).

For coastal communities to also play an active role as candidates for legislative members, it is necessary to increase resources in overcoming indications of limitations.
This is done in the context of equitable development. Otherwise, there will be inequality of welfare in the social life of coastal communities when compared to urban communities or outside coastal areas. It does not close the possibility that the involvement of the courts is needed, including the constitutional court as a state institution that enforces the Constitution and has the authority to examine laws. The idea related to court involvement can be analogous to Andy Omara's research that the involvement of the Court in determining economic and social rights can strengthen democracy because the Court can enforce issues that are not adequately addressed by parliamentarians (Omara, 2020). Meanwhile, the idea related to the involvement of the Constitutional Court can be analogous to the results of Adfin Rochmad Baidhowah's research that the Constitutional Court has been able to prevent the rapid decline of democracy and even a return to authoritarianism, by ensuring competitiveness, participation and accountability in elections (Baidhowah, 2021).

Increasing the resources of coastal communities towards the fulfilment of passive voting rights in elections is carried out through their involvement in all lines in the groups involved in electoral activities. This can start from a) the involvement of coastal communities in political parties. It takes commitment from political parties to involve coastal communities as members of political parties. The role of parties in carrying out political education can certainly make them capable cadres; b) involvement in election organizing institutions where it is also necessary to involve coastal communities as part of election administration. Normatively and empirically, this has been implemented in the form of involvement of coastal communities as ad hoc organizers in elections, such as their involvement as members of voting organizing groups placed at polling stations. This happens because they prefer to make a living mainly in the sea. For this reason, policies are needed that require representation from coastal communities by their areas, at least through organizations that have been formed in coastal areas, such as representatives of fishermen's associations or organizations. Through this pattern, it is hoped that it will penetrate not only as an ad hoc organizer at the polling station but can go to the next level or up to the village level as a member of the voting committee, as an election committee at the sub-district level and as a member of the election organizer at the district or city level.

To realize it all, it is necessary to regulate the birth of the government as a form of legal certainty. It is hoped that this regulation will create a sense of justice and benefit
for coastal communities that have been marginalized due to their limitations. These three feelings are basic values in law as stated by Radbruch that in law there are three basic values, namely justice, expediency, and legal certainty (Julyano & Sulistyawan, 2019).

5 CONCLUSION

From the description and discussion above, a conclusion can be drawn that the implementation of development law theory can give birth to the concept of fulfilling the passive voting rights of coastal communities as candidates for regional legislative members. To increase development and renewal, the presence of law is needed not only to carry out conservative functions but more than to help the process of changing society towards a process of renewal. The problem of limited coastal communities in fulfilling their passive voting rights in legislative elections does not stop the government's task. One of the functions of government is to make and implement laws that can be used to address problems in society so that people's basic rights can be fulfilled. Law is a legal product that can contain affirmative policies to overcome inequality in the social and political life of the community. It takes a pattern of cooperation from all interested parties to make it happen. And no less important is the increase in human resources in understanding their respective roles and cannot be separated from prospective legislative members who must have good education and the ability to instil public or voter confidence. For this reason, serious commitment is needed from all interested parties, namely the government, election organizers, election participants, and the community. So there are three things to fulfil the passive voting rights of coastal communities, namely the provision of affirmative policies as outlined in the laws and implementing regulations, the pattern of cooperation of all relevant stakeholders, and the improvement of human resources.

6 RECOMMENDATIONS

Passive suffrage in elections is a constitutional right that is part of the political rights of the community that must be fulfilled. With the current condition of limitations of coastal communities in fulfilling these rights, the author suggests the following:
1. Political parties require commitment in carrying out the roles and functions of the party, including political education that is felt massively for the community without exception so that coastal communities can be politically literate; 
   a) To the government, an affirmative policy is needed as outlined in the law that contains basic legal values in the form of legal certainty, justice, and expediency and is also supported by other regulations in implementing it.
REFERENCES


Rahman, Junita Budi. (2004). Women in the Masculine State of Indonesia; to increase its representation in parliament. (Papers) Bandung Women's Role Research Center: Padjadjaran University Research Institute, 11.


**Regulation:**

Constitutional Court Decision Number 011-017/PUU-I/2003

Constitution of the Republic of Indonesia Year 1945

Law Number 11 of 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights

Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights

Law Number 39 of 1999 concerning Human Rights

Law Number 7 of 2017 concerning General Elections

Law Number 7 of 2023 concerning the Stipulation of Government Regulations instead of Law Number 1 of 2022 concerning Amendments to Law Number 7 of 2017 concerning General Elections into Law.

Universal Declaration of Human Rights