

## **PARTICIPATION OF INDONESIAN CITIZENS IN ELECTIONS ABROAD 2019 PERSPECTIVE OF MAQASID SYARI'AH**

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**Abstract.** Election implementation is essentially a way of selecting someone to fill a political position in the constitution. It is hoped that the election will produce aspirational, high-quality leaders who are especially able to bring the government closer to the people. However, in practice, facts were found related to the enthusiasm of the people for the election process and election results, where people are less enthusiastic and even hurt democratic values. Especially in the implementation of elections conducted abroad. The lack of public participation abroad in the implementation of elections is caused by their identity not being registered as the Permanent Voters List (DPT) and the long distance to the polling place (TPS). The loss of their rights is the same as the violation of basic human rights for them and this clearly violates the Maqasid Shari'ah concept, in which citizens cannot exercise their rights *al-darruriyyat*. This study uses the method This research uses the Normative Juridical method in which this research refers to the legal norms contained in the Legislation. The data used was obtained through a literature study. From the research conducted, it can be understood that in Law No. 7 of 2017 concerning General Elections, matters related to election procedures abroad are regulated, where the participation of Indonesian citizens living abroad is a form of fulfillment of constitutional rights and also in the view of maqasid syari'ah elections are important to be implemented in the implementation of elections abroad.

**Keywords:** election; Indonesian citizen; maqasid syari'ah

### **I. INTRODUCTION**

Human Rights (HAM) are a set of rights that are intrinsically inherent in human beings, which must be upheld and protected by the state, government, law and also everyone. Human rights regarding the right to vote and vote (political rights) are also regulated in the constitution which indicates that the people take part in the implementation of politics in Indonesia. Apart from the 1945 Constitution, Indonesia has also ratified the 1948 Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR) through Law Number 12 of 2005 concerning the International Covenant on Civil and Political Rights (Law No. Act on the International Covenant on Civil and Political Rights). General Election is a process to select people to fill certain political positions, starting from the President, people's representatives at various levels of government up to the village head (Fajlurrahman Jurdi [1]. Article 22 E (1) of the 1945 Constitution states that "Elections are held directly, publicly, freely, confidentially, honestly and openly". One of the implementations of the General Election is the Presidential election (pilpres), in which the community plays an important role as the highest authority in selecting candidates for President and Vice President, so that the elected President will be determined by the people. In the Presidential Election, those who are entitled to vote are Indonesian citizens. Both those who are abroad and those who are in Indonesia. However, it should be noted that domestic presidential elections are held directly by the KPU (General

Election Commission) as stated in Article 22 E (5) of the 1945 Constitution. Meanwhile, overseas general elections are not carried out directly by the KPU (General Election Commission). but by the Overseas Election Committee (PPLN) (Dita Miradani [2].

In essence, the implementation of elections is very influential for the future of the nation, and the state is obliged to fulfill the political rights of each of its citizens both abroad and within the country. However, the fact is that until now the implementation of elections is inseparable from the various problems that have occurred, such as the professionalism of election organizers who are not good enough, the politicization of the bureaucracy, the lack of quality and capability of election and political participants and low political participation in society. In general elections abroad, the DPT (Fixed Voter List) is one of the problems that often occurs, even now it has not been able to reach the presence of Indonesian citizens abroad. Through data obtained from the KPU's official website, there were at least 2,058,191 voters consisting of 302,722 male voters and 1,155,464 female voters (KPU Open Data) [3]. However, this cannot be said to be progress in increasing the number of participants. This is because even though the number of data owned by the KPU is 2,058.19, the facts on the ground show that only the involvement of Indonesian citizens living abroad in the implementation of elections is very small. With regard to Election Supervision, Indonesia needs a mature model related to the implementation of field practice and planning so that

mistakes do not occur which will damage the general election. Viewed in the context of Islam, it is necessary to carry out a maqasid al-shari'ah approach. Therefore, this research seeks to examine the syar'iyah side of the political system in Indonesia on the basis of Law Number 7 of 2017. Basically, elections are a means for creating a just, prosperous and safe society so that it is in line with hifzu al -din (preserving religion), hifzu nafs (preserving the soul), hifzu al-'aql (preserving the mind), hifzu an-nasl (preserving offspring), and hifzu al-mal (maintaining property). The above should be the task of the organizing committee to carry out the socialization properly, not just fulfilling the task. Besides that, the service from the committee must also be improved, especially for PPLN, where the election procedure there is more complicated than the election procedure in the country.

## II. RESEARCH METHODS

This study uses the Normative Juridical method in which this research refers to the legal norms contained in the Legislation. The approach used by researchers in this paper is a descriptive analysis approach. The approach used by researchers in this paper is a descriptive analysis approach. Researchers explore and collect data by conducting literature studies, both obtained through books, journals and related articles. Thus, this study will present data sourced from official documents. Data analysis aims to interpret the data that has been arranged systematically by providing explanations and describing the data in the form of logical, overlapping and effective regular sentences.

## III. RESULTS AND DISCUSSION

### *Overseas Election Process Based on Law Number 7 of 2017*

Constitutional rights are the embodiment of every norm in the constitution. The constitution itself, according to James Bryce and C.F Strong, who are adherents of modern understanding, equates it with the Constitution. However, in the Constitution, the most important part is the content and content. Where James Bryce revealed that the Constitution is a tool that regulates the formation of a permanent institution that has the function of other fittings and is given certain rights as determined. C.F Strong also stated that the constitution is a collection of principles of government power and the right to be governed so that the relationship between the two must be adjusted. Constitutionally, political rights owned by Indonesian citizens consist of 3, namely: First, every citizen has equal standing before the law and the government. Every citizen has the same right to take part in elections, both as voters and those who are elected. There is no distinction whatsoever in political rights unless the person concerned is subject to a criminal act in the form of revocation of political rights which is decided by a court. Second, the right to freedom of assembly and expression. Every citizen has the right to vote and be elected based on their personal views and conscience. Third, the right of every citizen to get political education. Where healthy politics is a reflection of good

political education, so that every political party is obliged to provide political education for the community.

Political rights themselves are an inseparable part of elections as a consequence of the principle of popular sovereignty. And every citizen has the right to participate in the political process both from the regional level and from the central level. People's sovereignty can run optimally only if society has a tendency to form a participant political culture. One of the implementations of citizens' rights is by granting political rights in general elections. What determines the democratic level of the political system as the core of democracy is the participation of the people themselves. In order to achieve democratic general elections, it is necessary to carry out elections with integrity, where according to the Global Commission on Election, Democracy and Security led by Kofi A. Annan there are three indicators of elections with integrity, including: first, voting rights must apply generally and there is equality absolute between every citizen to be implemented. This is because every individual has the same rights towards himself, including in terms of holding elections. second, professional, transparent implementation accessible to the wider community and not taking sides with one thing. Third, professional work ethics and uphold election ethics with integrity and dignity. In addition to these three indicators, in general there are two requirements as parameters for a democratic state, namely accountability and the guarantee of the basic rights of the people. One of the government's concrete steps in upholding a democratic state is by fulfilling the political rights of every citizen. Where people's sovereignty based on the constitution must be implemented properly, because this is the benchmark of democracy itself. in elections every aspiration given is a symbol of freedom of opinion in choosing a leader. People's sovereignty can only be said to be fulfilled if people's right to vote can be accommodated in elections.

Juridically, the basis for enforcing laws and regulations consists of *Lex Specialist Derogate Legi Generalis*, and *Lex Superior Derogate Legi Inferior*, therefore the structure of the Legislation that regulates the Implementation of Elections is the Constitutional Basis in the implementation of Indonesian Elections contained in article 1 (2) Fourth Amendment to the 1945 Constitution. Where elections are a form of implementation that true, sovereignty is in the hands of the people. Law Number 7 of 2017 concerning Elections is also the basis for holding elections. which in this law discusses in detail the definitions, principles, objectives of the election implementing committee both at home and abroad, duties and so on. As for the Laws which serve as a technical reference in the implementation of elections for the president and vice president, namely Law Number 5 of 2018 concerning Amendments to the General Election Commission of the Republic of Indonesia Regulation Number 7 of 2017 concerning Stages, Programs, and also Schedules for Organizing General Elections, Regulation of the General Election Commission of the Republic of Indonesia Number 8 of 2018 concerning Voting and Vote Counting for the Election of Governors and Deputy

Governors, Regents and Deputy Regents, Mayors and Deputy Mayors.

The procedure for conducting General Elections Abroad for the President and Vice President begins with the provision of information to the Consulate General of the Republic of Indonesia through the news of the Internal Working Group (Pokja) by the Indonesian KPU and the Ministry of Foreign Affairs and then received by the relevant Foreign Affairs communications section. Internal news contains a number of laws and regulations that regulate the technical implementation of overseas elections, instructions for conducting elections and other documents related to overseas elections. The next step is that the Indonesian Consulate/KBRI/KRI plan to form an Overseas Election Implementation Committee (PPLN). The initial step of this plan is to publish to all Indonesian citizens in the relevant regions regarding the registration of prospective chairmen and also PPLN members. The requirements to become a PPLN are Indonesian Citizens. The minimum age is 17 years for PPLN. Loyal to Pancasila as the State Foundation, the 1945 Constitution of the Republic of Indonesia, the Unitary State of the Republic of Indonesia, Bhineka Tunggal Ika and the Ideals of the Proclamation of August 17, 1945. Have a spirit of integrity, a strong personality, honest and fair. Not a member of a political party, or no longer a member of a political party for at least 5 (five) years. Domiciled in the working area of PPLN. Able physically, spiritually and free from drug abuse. The lowest education level is Senior High School (SMA) or equivalent. Never been sentenced to prison based on a court decision that has permanent legal force for committing a crime punishable by imprisonment for 5 years or more (Ministry of Foreign Affairs).[4]

Setelah diadakan pemilihan dan pelantikan atas anggota PPLN is elected, then officially PPLN is obliged to carry out the mandate as an extension of the KPU RI. Overseas voter data updating officers, hereinafter referred to as (Pantarih LN) coordinate with PPLN to prepare Coklit work plans abroad. The main task of Pantarih LN is to check data on Indonesian citizens registered at the Indonesian Embassy/KJRI/KRI which will later combine the completeness of the data and group them according to gender so that it is easy to classify. The implementation of voter list checks abroad is guided by the procedures for the Overseas Pantarih implementation of checklists. The method used in carrying out coklit is to match the Voter List on the Model A form - Foreign Voter List with a Passport or SPLP. Complete the NIK data or KK number by checking e-KTP and KK. If voters cannot show NIK but voters have NIT, then the officer can complete the NIK column on the Model A-List of Potential LN Voters Form by entering the NIT that has been verified through the digital identity application. Recording data of voters who have passports or SPLP but have not been registered as Overseas Voters in the model A form - List of Potential Foreign Voters (Copy of KPU Decree Number 55 of 2023).[5] PPLN members then form the Overseas Voting Organizing Group (KPPSLN). As stated in Chapter 1 article (1) PKPU RI Number 12 of 2018 concerning Compilation of Overseas Voter Lists in the Implementation of General

Elections, it states that the KPPSLN referred to is divided into three classifications, namely KPPSLN TPS LN, KPPSLN Post, KPPSLN Mobile Ballot Boxes (KSK ) (Copy of PKPU RI Number 12 of 2018).[6] But in the context of the field, the existing methods do not have to be used all of them. So in this case it depends on the most probable conditions. KPPSLN members themselves, functionally have several functions such as announcing the Foreign Permanent Voters List (DPTLN) both TPS and Post. Second, they both convey to DPTLN members to exercise their right to vote in the general election that will take place. Third, carry out voting and vote counting in accordance with their respective authorities. And the fourth is carrying out the assistance task as ordered by the PPLN and/or KPU RI as far as it does not conflict with the laws and principles in the implementation of the General Election.

#### *Indonesian Citizen Participation in Overseas Elections*

Indonesia is the largest democratic country in the world and continues to build a better democratic administration by improving the quality of holding elections and also trying to adapt legal regulations to the development of society. In a democratic country, political participation itself is an indicator of the implementation of the highest administration of state power by the people, which is applied through the involvement of the people in democratic parties. The higher the political participation of the community, it indicates that the community is able to understand and participate in state activities. Conversely, a low level of political participation indicates that the public lacks appreciation for state activities (Dedi Amrizal, Ahmad Hidayah Dalimunthe and Yusriati [7]). in the hearts of voters, voters are getting fed up with the five-year democratic process where it does not bring change to people's lives. Society understands that participation in politics is a right, not an obligation. And finally, the people are trapped in a routine economic life which makes politics not a priority so that it affects the people's perspective on politics (Republika).[8]

In order to provide full political rights to its citizens, elections are not only held within the country but also held abroad. The General Election Commission (KPU) formed an Overseas Election Committee (PPLN) to hold elections abroad (Diya UI Akmal).[9] The PPLN's duties are to assist the KPU in updating voter data, provisional voter lists, revised voter lists and final voter lists (Election Organizer Law). as an arm of Bawaslu where if there is a violation then Panwaslu LN will report to Bawaslu and then will decide cases of election violations along with election disputes in the country. However, until now there are still frequent problems in the implementation of elections related to public participation. The government focuses too much on resolving problems that occur in the country, even though elections held abroad also experience the same problems and their implementation is still not optimal. One of the main problems is the loss of political rights for Indonesian citizens abroad, where the majority are students who are continuing their education and also Indonesian migrant workers. In the 2019 [10] General Election, as many as 2,086,285 people were registered on the

Final Voter List (DPT), which are spread centered on the highest percentage of the total DPT, such as Hong Kong, Singapore and Malaysia. In Malaysia itself, the total number of overseas voters covers 56%, which means that the total number of DPT is still very low when compared to the indications of the total number of Indonesian citizens abroad, which has reached 6.5 million people (Migrant Care Secretariat).[11] This large difference in numbers will have an impact on the loss of political rights owned by Indonesian citizens abroad. Like the incident that occurred in Singapore based on information accessed through Kompas, where migrant workers who have become DPTs do not receive an invitation letter. This is due to the distribution of invitation letters by PPLN which is not evenly distributed, causing these migrant workers to lose their right to vote and also because their employers are prevented from obtaining the invitation letter (Luthfia Ayu Azanella).[12]

In determining the Potential Population Data for Overseas Election Voters (DP4LN), the KPU relies heavily on data provided by the ministry in charge of foreign affairs. Indeed, it is not the KPU's task to solve problems with the overall data collection. Indonesian citizens abroad, but problems this is the initial cause of non-fulfillment of political rights for all Indonesian citizens. References in elections are formulated by the International Institute for Democracy and Electoral Assistance (International IDEA) which have become guidelines for the Indonesian government in drafting regulations regarding elections. But even so, the KPU must remain careful and thorough in implementing it. The existence of problems related to the DPT and the voting system implemented abroad, eventually led to complaints against Indonesian citizens who felt that their right to vote was being taken away. Departing from this problem, the government should see and move to find a solution that is effective in dealing with this problem. For example, reforming the law regarding the election system, which in the future can provide convenience in registration, as well as updating the voting mechanism which is much safer, easier and can guarantee accuracy. For example by doing e-voting. In this way, it is hoped that the problems that are often complained of by Indonesian citizens who are abroad can be overcome and their rights can be fulfilled and distributed as they should (Ni Nyoman Resi Rismadani and Dewa Nyoman Rai Asmara Putra)[13]

In this study, the authors took a sample as a reference for the participation of Indonesian citizens living abroad. The samples were taken from Malaysia, Singapore and Hong Kong which were made in table form to make it easier to understand the substance of the report. The implementation of the Mobile Ballot Box (KSK) is a form of democratic jihad if you look at its struggle in meeting voters, but on the other hand this method is also vulnerable to violations due to the lack of supervision, where the majority of KSKs in Kuala Lumpur were held without supervision (Suar Voting Monitoring Report). [14]

Table 1. Monitoring Results in Malaysia. Number of Voters in Malaysia

No.	Region	Amount TPS (Polling Place) voters	Amount KSK Voters (Mobile Ballot Box)	Amount Post Selector
1	Kuala Lumpur	127,044	112,536	319,293
2	Johor Bahru	5,906	126,063	1,284
3	Kota Kinabalu	11,287	129,591	0
4	Kuching	1,191	137,424	337
5	Penang	2,432	30,447	27,731
6	Tawau	20,068	51,922	0
Total number		167,928	587,983	348,645
		1,104,556		

Table 2. Monitoring Results in India, Data of Fixed Voter Result of Change II Overseas (DPTHP II LN)

No.	TPS Method	Post Method	Gender	
			Male	Female
1	110	340	122	328

As a result of updating the data by the KPPSLN, the number of registered voters at TPS was 110 Indonesian citizens. As for the people who participate in exercising their right to vote by post as registered, there are as many as 63%. From this composition, the number of election participants who became the Permanent Voters List (DPT) was 64 people, while for the Additional Voters List (DPTb) there were 12 people, and for the Special Voters List (DPK) there were 19 people (Rie Ekawie Baskoro).[15]

Table 3. Monitoring Results in Singapore, Voter Category in Singapore

No.	Voter Category in Singapore	Amount
1	Direct TPS Voters	36,692
2	Post Voters Using TPS	1,414
3	Post Selector	10,296
Total Number of Voters in Singapore		48,402

The holding of elections in Singapore is quite inclusive and is also measurable from the procedural requirements for voters to be able to exercise their right to vote. Based on monitoring, there was an increase in the number of voters caused by high voter euphoria. The increase in the number of voters did not only come from registered voters but also from voters who had not been registered before but met the requirements to vote by bringing or showing a passport or other identity. but with the overwhelming number of voters, in fact it is not proportional to the total number of DPT.



**Table 4. Voter Participation in Singapore**

No.	Selector Type	Amount in DPT	Number of Incoming Votes	Difference	Participation
1	TPS	106,923	36,692	70,231	34%
2	Postal Mail	18,480	11,710	6,770	63%
Total number		125,403	48,402	77,001	39%

From the table it can be seen that the total voter turnout in Singapore is 39%. This means that, even though there is an overpopulation of voters, voter participation in Singapore has not been fully accommodated. The following describes Voter participation in Singapore (migrant care).[16]

*Review of Maqasid Syari'ah on the Participation of Indonesian Citizens Living Abroad in Election Implementation*

In language Maqasid Syari'ah comes from two words namely Maqasid and al-shari'ah. Where maqasid is the jama' of maqsid which has the meaning as "goals, targets, things requested or ultimate goals" (Jasir 'Audah).[17] While the word shari'ah itself is linguistically a way to a spring. Whereas the word asy-shari'ah in the munawir dictionary means "rules, laws, laws". Maqasid Shari'ah itself is interpreted as an attempt by Islamic law to obtain the goal of permissibility or prohibition of something. This goal can be a link between al-Tasyri' al-Islami and several ongoing concepts about Human Rights (HAM), development and social justice. The earliest originator of the Maqasid Syari'ah concept was Abd al-Malik al-Juwaini by introducing the terms al-maqasid and al-masalih al-'ammah which mean general benefits. (Jasir 'Audah).[18] However, along with the development of the times, the scholars began to develop this concept by classifying it into several basic forms, namely al-daruriyyat (necessity), al-hujiyyat (necessity) and al-tahsiniyyat (luxuries). (M. Reza Saputra).[19] According to al-Syatibi, shari'a is basically applied to realize the benefit of the people both in this world and in the hereafter. Thus we can be sure that Allah will not prescribe His laws except for the benefit of all mankind and to prevent and free them from damage and immorality and sinful acts. According to al-Syatibi Dharuriyat includes five objectives, namely protecting religion (ad-din), protecting the soul (hifzh an-nafs), protecting the mind (hifzh al-'aql), protecting offspring (hifzh an-nasl), protecting property (hifzh al-'aql). -mall). In essence, the privilege of the Shari'a itself is centered on achieving the goals of the Shari'a itself which focuses on the fulfillment of human needs which consist of the levels of al-dururiyyat, hajiyyat and tahsiniyyat and are divided into several categories such as hifzu al-din, hifzu an-nafs, hifzu al-'aql, hifzu an-nasl and hifzu al-mal. The realization of these human values will also create benefit and avoid all forms of damage on earth. In elections, we can see the application of Maqasid Syari'ah itself, where by holding elections, the level of Maqasid Syari'ah, namely al-darruruyyat, can be fulfilled. The problem that occurs is that many Indonesian citizens living abroad during the election make them unable to participate and make them part of the

Golput group (white group). Abstentions itself is a term that is often used in the world of politics, where when a participant in the voting process does not vote or does not choose a single candidate leader until the voting process ends (Wikipedia).[20] Their non-participation in the election can be caused by many things, such as not being registered in the DPT, the distance of the polling station is far from their place of residence and also the lack of socialization from the implementing committee to them.

In the Qur'an there is no firmness regarding procedures and orders in appointing leaders. But implicitly we can see in Surah an-Nisa: 58 where in the verse there is an order to fulfill the mandate and decide cases fairly. The order to carry out the mandate shows the need for a leader, not just to rule but also to establish the law among humans in the fairest way. Elections as the big agenda of the nation and state in choosing leaders must continue to prioritize hifzu al-din, this aims to maintain religion, especially in the implementation of elections. Elections in the context of hifzu an-nafs can be in the form of providing protection for election participants to be safe and free from feelings of intimidation during the Election. in the context of hifzu al-'aql it is an obligation for the government to provide understanding to Indonesian citizens living abroad to be able to participate in the election implementation as well as possible. Whereas in the an-Nasl context it can be in the form of granting rights to vulnerable parties or groups. And the last one is in the context of hifzu al-mal. In this context, its application is more to the implementing agency and election supervisors. Property maintenance here is in the form of participatory supervision of the existence of money politics and the use of the state's budget for personal gain (M.Reza Saputra).[21] If money politics has become a habit for prospective leaders, there will be many other damages such as corruption which is a disease that is difficult to cure.

**IV. CONCLUSION**

The procedure for conducting General Elections Abroad begins with the provision of information to the Consulate General of the Republic of Indonesia through the news of the Internal Working Group (Pokja) by the Indonesian KPU and the Ministry of Foreign Affairs and then received by the relevant Foreign Affairs communications section. The next step is that the Indonesian Consulate/KBRI/KRI plan to form an Overseas Election Implementation Committee (PPLN). As stated in Chapter 1 article (1) PKPU RI Number 12 of 2018 concerning Compilation of Overseas Voter Lists in the Implementation of General Elections, it states that the KPPSLN referred to is divided into three classifications, namely KPPSLN TPS LN, KPPSLN Post, KPPSLN Mobile Ballot Boxes (KSK ). KPPSLN members themselves, functionally have several functions such as announcing the Foreign Permanent Voters List (DPTLN) both TPS and Post. Second, they both convey to DPTLN members to exercise their right to vote in the general election that will take place. Third, carry out voting and vote counting in accordance with their respective

authorities. And the fourth is carrying out the assistance task as ordered by the PPLN and/or KPU RI as far as it does not conflict with laws and regulations and principles in the implementation of the General Election. Elections held abroad have also experienced, one of the main problems is the loss of political rights for Indonesian citizens abroad where the majority are students who are continuing their education and also Indonesian migrant workers. In the 2019 General Election, as many as 2,086,285 people were registered on the Final Voter List (DPT), which are spread centered on the highest percentage of the total DPT, such as Hong Kong, Singapore and Malaysia. In Malaysia alone, the total number of overseas voters covers 56%, which means that the total number of DPT is still very low when compared to the indications of the total number of Indonesian citizens abroad, which has reached 6.5 million people. Elections as the big agenda of the nation and state in selecting leaders must continue to prioritize *hifzu al-din*, this aims to preserve religion, especially in the implementation of elections. elections in the context of *hifzu an-nafs* can be in the form of providing protection for election participants to be safe and free from feelings of intimidation during the election. in the context of *hifzu al-aql* it is an obligation for the government to provide understanding to Indonesian citizens who live abroad to be able to participate in the implementation of elections as well as possible. Whereas in the *an-Nasl* context it can be in the form of granting rights to vulnerable parties or groups. And the last one is in the context of *hifzu al-mal*. In this context, its application is more to the implementing agency and election supervisors. Property maintenance here is in the form of participatory supervision of the existence of money politics and the use of the state's budget for personal gain. For example, reforming the law regarding the election system, which in the future can provide convenience in registration, as well as updating the voting mechanism which is much safer, easier and can guarantee accuracy. For example by doing e-voting. In this way, it is hoped that the problems that are often complained of by Indonesian citizens abroad can be overcome and their rights can be fulfilled and distributed accordingly.

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