

CHAPTER I

INTRODUCTION

A. Background

Electoral systems in democratic countries sometimes may lead to the disputes among the contestants, and also causes segregated society while in Islam, during the caliph system, the election was held in an orderly manner without any protest or dispute.¹ It is very different from the electoral system in Indonesia or in other democratic countries. Election often causes disputes that originated from the cheating of the one or many parties. In Indonesia, for example, during general election of 2009, the Constitutional Court of The Republic of Indonesia had officially filed 627 disputes of legislative elections, 2 cases of presidential election, and 28 cases of regional election disputes.²

In 2014 there was also a dispute reported by the presidential candidates of the Republic of Indonesia, namely Prabowo-Hatta Rajasa. The disputes had been taken to the Constitutional Court, filed it into the realm of ethics by complaining to the Honorary Board of the Election Organizers through the State in Administrative Court and registered it as

¹Jubair Situmorang, *Politik Ketatanegaraan dalam Islam*, 2012, Bandung: Pustaka Setia p. 215

²Ramlan Subakti, Didik Supriyanto, Topo Santoso, 2011, *Penanganan Sengketa Pemilu*, Jakarta: Kemitraan bagi Pembaruan Tata Pemerintahan. P. 38

the positive law at the Supreme Court.³ The presidential election dispute was originated by several legal defects. One of them is different number of permanent voters list as recapitulated by the General Election Commission on 22 July 2014 with KPU Decree No. 477/Kpts/KPU/ 13 June 2014, and the alleged violation of Law No. 42 of 2008 on General Election of The President and Vice President, Law No. 15 of 2011 on General Election Enforcer, and KPU Regulation No. 5, 18, 19, 20, and 21 of 2014.⁴

In Islamic election system, particularly during the caliph authority, there was no any dispute in election. Jubair Situmorang said that, in the election of the Abu Bakar and the third caliph, there were some principles that approved by all people; the caliph was elected directly by the people, namely the *Muhajirs*, and the *Ansar*. It means that there was a principle of openness and collective agreements.⁵ Another principle was the community *bai'at* to the nominated caliph in which the people agreed not to protest against the nomination and *bai'at* process since the determination and selection were based on consensus as guided by al-Quran, *Sunnah* and *ijma* of the companions.⁶

Above phenomena prove that although the principles of democracy and Shura were equal in the principle of involving people but they were

³Kompas, "Cerita Satu Dekade Prabowo dan Putusan Sengketa Pilpres 2014 di MK", <http://indonesiasatu.kompas.com/read/2014/08/21/08362611/cerita.satu.dekade.prabowo.dan.putusan.sengketa.pilpres.2014.di.mk>, accessed on Tuesday, November 22, 2016, at 13.02 pm.

⁴*Ibid*

⁵Jubair situmorang, *Politik Ketatanegaraan Dalam Islam*, 2012, Bandung: Pustaka Setia P. 215

⁶*ibid*

different in terms of disputes that occurred following the implementation of the systems.

Indonesia is ranked as the biggest Muslim population in the world but its population are less than those of Indian of 1,31 billion, Chinese of 1,38 billion ,or USA of more than 326 million.⁷ Islam is embraced by 88.6 per cent of Indonesian population.⁸ By having such percentage, Muslims in Indonesia gradually should use and adopt the Islam election system in choosing the head of state / head of government. In the reality, the election committee never use Islamic election system. Since Indonesia is Muslim country and Islam teachings are practiced in the daily life of the people, there must be an effort to assimilate Islamic teachings into Indonesian election system. Thus, the researcher is very interested in conducting a research on the similarities and differences between Islamic and Indonesian democratic systems by applying positive law approach.

B. Research Problem

Based on the background mentioned above, the researcher formulates the problem “How is the comparison of succession mechanism of the head of state in Indonesian democratic and Islamic systems?”

⁷ CIA World Factbook 2004, Daftar Negara Menurut Jumlah Penduduk, https://id.wikipedia.org/wiki/Daftar_negara_menurut_jumlah_penduduk, accessed on August 23, 2017 at 09.44 am

⁸Zuly Qodir, *Op.Cit* p. 5

C. Objectives of the Research

The objectives of the research are:

1. To understand the system of election of the head of state/head of government in Indonesian democratic system.
2. To understand the system of succession of the head of state/head of government in the Islamic system.
3. To analyse the similarities and differences between the succession system of head of state/head of government in Indonesian democratic and Islamic systems

D. Benefits of Research

1. To provide an understanding to Muslims in Indonesia regarding the involvement of Islam in the political sphere especially in the procedure of electing the head of state / head of government.
2. To make a better election system of the head of state / head of government after understanding differences and similarities of Indonesian democratic and Islamic systems.