

CHAPTER TWO

LITERATURE REVIEW

A. General Election

1. Definition of General Election

General election is one of the consequences if the state adopts the principle of sovereignty belongs to the people in the life of nation and state.¹ The general election is also an important event that must be held periodically at certain times. The importance of general election is held periodically due to several reasons. First, the opinion or aspiration of the people regarding the various aspect of common life in a society has dynamic and developing characteristics in time to time. Second, the society condition in common life also can be changed either because of the international dynamics or because of the domestic factors. Third, changes aspiration and opinion of the people also can be possible due to the increase in the population and the maturity of the people or new voters. Fourth, elections need to be held periodically to ensure a change of state leadership.²

In the general election, there are some principles namely principle of direct, general, free, confidential, honest and fair. Direct means someone right to vote cannot be replaced or represent by others. General

¹ Putera Astom, 2014, *Hukum Tata Negara Teori dan Praktik*. Yogyakarta, Thafa Media, p. 121.

² Jimly Asshiddiqie, 2006, *Pengantar Ilmu Hukum Tata Negara*, Jakarta, PT RajaGrafindo Persada, p. 415.

means that the general election is followed by the people who have fulfilled the requirements. Free means the citizen in determining their right to vote is not limited and guaranteed by law. Confidential means nobody is allowed to know who the voters choose. Honest means the election must be done honestly without any deception. Fair means all voters or election participants should receive equal treatment from election organizers.³

The general election is one of the implementations of citizen's rights. Therefore, the implementation of citizen's rights is an obligation of the government. So, the government should guarantee that the general election will be implemented well based on the law.⁴

2. The Purpose and Function of General Election

In the general election, society is the holder of the state sovereignty which the society has right to elect the President for 5 years later. According to Jimly Asshiddiqie, there are four purposes of general election, namely:⁵

- a. To sustain the transition of government leadership orderly and peacefully;
- b. To sustain the replacement of officials who will represent the interests or will of the people in the representative institutions;

³ Mexsasai, Indra, 2011, *Dinamika Hukum Tata Negara Indonesia*, Bandung, PT Rafika Aditama, p. 283.

⁴ *Ibid.* p. 416

⁵ *Ibid.* p. 276.

- c. To implement the principle of people's sovereignty in the representative institution;
- d. To implement the principle of citizen's rights.

The purpose of the general election is one of the ways for the people to involve in the political process. The most important purpose of the general election which in its implementation is based on Law Number 7 of 2017 Article 1 namely the election held to elect members of the DPR, the DPD, the President and the Vice President, and to elect members of the DPRD of the Republic of Indonesia based on Pancasila and the 1945 Constitution.⁶

General Election has the function and position that more important for a democratic state because the general election is the best way of democracy to repair the political system in the state and to gain government with the strong legitimacy.⁷ According to Arbi Sanit, the general election has four main function, as follows: ⁸

1. The formation of the legitimacy of the authorities and the government;
2. The formation of people's political representation;
3. The circulation of authority elite; and
4. The political knowledge.

⁶ Article 1 Law No. 7 of 2007 about General Election.

⁷ Septi Nurwijayanti, Nanik Prasetyoningsih, 2009, *Politik Ketatanegaraan*, Yogyakarta, LabHukum Universitas Muhammadiyah Yogyakarta, p. 68.

⁸ Titik Triwulan, 2010, *Konstruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*, Jakarta, Kencana, p. 333.

3. The System of General Election

The general election has a system that is a political instrument which is agreed by the scholars as the establishing tools of representative bodies and government.⁹ Sigit Pamungkas defines that the system of general election is a method to transfer the voter's right into people representative council.¹⁰ Election system has impact through the characteristic of the competition in general election and also gives the impact to the political elite and political party itself. The election system is the first problem of the implement of the legislative, because election system has big influences in the stages and the implementation of the next election.¹¹ Likewise, the electoral system will determine whether or not democratic elections are held. In the democracy system of government, the presence of free and fair elections is a necessity. Conceptually, there are two mechanisms that can be done to create free and fair elections:¹²

1. Create a set of methods to transfer voting votes into a representative body of people fairly (electoral system);
2. The execute elections in accordance with the rules and principles of democracy.

⁹ Agus. Riwanto, 2016, *Hukum Partai Politik dan Hukum Pemilu di Indonesia*, Yogyakarta, Thafa Media, p. 338.

¹⁰ Khairul Fahmi, 2011, *Pemilihan Umum dan Kedaulatan Rakyat*, Jakarta, PT RajaGrafindo Persada, p. 51.

¹¹ KPU DIY, "Fungsi dan Sistem Pemilihan Umum", 2016, <http://diy.kpu.go.id/web/2016/12/19/pengertianAfungsi-dan-sistem-pemilihan-umum/> Accessed on Thursday, 24 May 2018, 1:13 pm.

¹² Titik Triwulan, *Op.cit.* p. 335.

The electoral system is essentially a set of methods governing citizens in electing representatives in a representative body of the people, as doe's parliament.¹³ The electoral system is divided into two kinds, namely:

1. Mechanical Selection System

In this system, the people are seen as a common individual. These individuals are the active voting controls in each issue a representative institution vote.¹⁴ The flow of liberalism, socialism and communism are basing itself on a mechanical view.¹⁵ Liberalism prioritizes more on individual as a unity of autonomous and view society as a complex of interpersonal relationships that are contractual in nature, whereas the views of socialism and especially communism prioritize the collective totality of society by undermining the role of the individual. However, in all of these schools of thought, individuals are still seen as active voters and view the voting corps as a mass of individuals, each of whom has one vote in each election with his own vote.

The implementation of mechanical selection system can be done in two ways, namely district representation system and proportional representation system. In each country it may be the choice between the two systems, but with unequal variations

¹³ *Ibid.* p 336

¹⁴ Septi Nurwijayanti, Nanik Prasetyoningsih, *Op. cit.* p. 70.

¹⁵ Mahfud MD, 2001, *Dasar dan Struktur Ketatanegaraan Indonesia*, Jakarta, PT Rineka Cipta, p. 76.

between applications in one country and another. The district representation system is the majority system in which to determine who is elected as the representative of the people in the district is determined by the majority of votes, not the absolute majority.¹⁶ The district system in principle affirms the mandate of the people's representatives on the principle of one man one vote.¹⁷ While the proportional system requires that the number of people's representatives sitting in representative institutions is a portrait of population statistics.¹⁸ It means that there is a correlation between the proportion of the population and the representatives sitting in representative institutions.¹⁹

2. Organic Selection system

In this system, the position of the people is as a number of individuals who live together in various genealogical alignments (household, family), social layers (laborers, peasants, intellectuals), certain functions (economy, industry) as well as social institutions such as universities.²⁰ Groups in society are viewed as an organism composed of organs having certain positions and functions in the totality of organisms, such as communities or living communions.

¹⁶ Septi Nurwijayanti, Nanik Prasetyoningsih, *Op. cit.* p. 70.

¹⁷ Aminah, 2012, "Analisis Penerapan Sistem Proporsional dan Sistem Distrik dalam Pemilihan Umum untuk Penyerderhanaan Sistem Partai di Indonesia Ditinjau dari Asas Negara Hukum" available at <https://jurnal.uns.ac.id/yustisia/article/download/10628/9506> Accessed on Friday, 25 May 2018, 12:35 am. p. 76.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Septi Nurwijayanti, Nanik Prasetyoningsih, *Op. cit.* p. 72.

For example, in view of the living partnerships which are the ones who are the persons who are primarily the persons and the controller of suffrage. In other words, such partnerships have the right to vote for sending their representatives to representative bodies of society.²¹

According to the organic electoral system, political parties need not be developed because elections are organized and led by a communion of life within its own sphere, representative bodies function to represent the special interests of the life alliance.²²

4. The Democracy Process in General Election

Elections in Indonesia's democratic state are a peaceful process of change of power which is carried out periodically based on the constitution. Principles in the general elections with the constitution, among others, the principle of citizen life of the sovereignty of the people (democracy) is marked that every citizen has the right to participate actively in every decision process which made by the state. From the principles of the election, we can understand that the election is a very important political process in organizing power for the country which adopts the principles of democracy.²³

²¹ Jimly Asshiddiqie, *Op.cit.* p. 180.

²² Anis Azizah, "Sistem Pemilihan Umum", 2017, Available in <https://www.kompasiana.com/anisazizah96/59a753fb159344519b0ea182/sistem-pemilihan-umum> Accessed on Friday, 25 May 2018, 11:55 am.

²³ Walid Mustafa, 2012, "Pemilu dan Proses Demokratisasi di Indonesia", Available in https://www.kompasiana.com/walidmusthafa/pemilu-dan-proses-demokratisasi-di-indonesia_5512168d813311c953bc5fcf Accessed on Saturday, 26 May 2018, 02:06 am.

The submission of the will of the people through a system of representation in the doctrine of its sovereignty to apply the sovereignty of the people through the democratic system indicates a relationship between the theory of the people's sovereignty and the democratic system in a series of rounds that cannot be separated from each other. Thus, the elections are nothing but a way to elect people's representatives democratically.

Modern democratic systems, legality and legitimacy of government are very important factors.²⁴ On the one hand, a government must be established in accordance with the provisions of law and constitution, so it can be said to have legality. On the other hand, the government must also be legitimate, in the sense that in addition to legal, it must also be trusted. Any democratic government that claims to be from the people, is necessarily in accordance with the election results as an important feature or a fundamental pillar in modern democratic systems.²⁵

According to Austin Ranney (Rusli Karim : 2006 : 13) there are eight main criteria for democratic elections, that is:²⁶

a. General vote

²⁴ Didik Sukriono, 2009, "Menggagas Sistem Pemilihan Umum di Indonesia", *Jurnal Mahkamah Konstitusi*, PKK Universitas Kanjuruhan Malang, Vol. II Number 1, p. 14.

²⁵ Jimly Asshiddiqie, 2006, *Pengantar Ilmu Hukum Tata Negara*, Jilid II, Jakarta: Konstitusi Press, p.172.

²⁶ Edwin, 2016, "Proses Demokrasi Di Lembaga Per masyarakatan Kelas IIA Tanjung Pinang", Skripsi Prodi Ilmu Pemerintahan Fakultas Ilmu Sosial dan Ilmu Politik Universitas Maritim Raja Ali Haji Tanjung Pinang, p. 13.

Election is called democratic when all of the adult citizens may enjoy passive or active voting right. Although restrictions are imposed, they must be democratically determined, by law.

- b. Equal vote weight. There is a guarantee that the votes of each voter are given equal weight. That is, there can be no group of citizens, no matter what their position, life history, and services, which get more representatives from other citizens. Quotas for a parliamentary seat should be general. The availability of significant elections. The essence of choosing is assumed to be more than one choice.
- c. Freedom of nomination. Through the organization of each group of people fostering, selecting and nominating candidates that they value are able to translate organizational policy in the implementation of state governance. Thus, within the freedom of organization, it implicitly embodies the principle of freedom of nomination of candidates for the people's representatives. For that is the only way that significant choices can be guaranteed in the electoral process.
- d. Equal rights campaign. The work program and the leading candidates will be meaningless if not known by the voters. Therefore, campaigns are important in the election process.

Through this process, the mass of voters is introduced to candidates and work programs of election contestants.

- e. Freedom of speech. The voter must be free from the various physical and mental barriers in determining his choice. There should be a guarantee that one's choice is protected in secrecy from any party, especially from the authorities.
- f. Honesty in vote counting. Fraud in vote counting can derail the efforts of people's embodiment into a representative body of the people. The existence of independent election monitoring institutions may sustain the realization of the principle of honesty in vote counting.
- g. Organizing periodically. Elections are not submitted or revoked at will by the authorities. Elections are intended as a means of organizing a peaceful and institutional change of authority.

With regard to the importance of elections in the process of democratization in a country, it is important to realize elections that really lead to democratic values and support democracy itself. Electoral system selection is one of the most important in any democratic country, most of the existing electoral system is not actually created because it is chosen, but because of the conditions that exist within the community and the history that influences it.²⁷

²⁷ Walid Mustafa, *Op.cit.*

5. The Simultaneous Election

Concurrently theoretical concepts of elections are a political policy to merge the implementation of legislative and executive elections in one election day.²⁸ However, what needs to be a mutual agreement is that elections are just an instrument in a democratic system. This instrument can certainly be adjusted and changed depending on the conditions and objectives of a country. The thing that should be upheld together is the interests of the nation and NKRI should be the most important goals and priorities. The effectiveness of simultaneous elections can be implemented well at least by strengthening the 5 main aspects, ie: The election law is aspirational and applicable as a legal umbrella as well as the design of professional election simultaneous model, the effectiveness of simultaneous election financing, the readiness of political parties in general elections, and the need for political socialization and community participation.²⁹

In the practice of constitutional democracy transition that took place in the period 1998 until now is an integral part of efforts to realize the consolidation of a strong and reliable democracy. The momentum of the democratic transition in the reform era was marked by the 1999 election which was the first election during the reform period which was attended by 48 political parties. The vote was held on 7 June 1999

²⁸ Ria Casmani Arrsa, 2014, "Pemilu Serentak dan Masa Depan Konsolidasi Demokrasi", *Jurnal Konstitusi* Vol. 11 No. 3, p. 532.

²⁹ Triono, 2017, "Menakar Efektivitas Pemilu Serentak 2019", *Jurnal Wacana Politik* Vol.2 No. 2, p. 163.

simultaneously throughout the territory of Indonesia. The historical trajectory of election developments in 2004 was the first election which allowed the people to elect their representatives directly to the DPR, DPD, and DPRD and directly elect the President and Vice President. The 2004 elections were held simultaneously on 5 April 2004 to elect 550 DPR members, 128 DPD members, and members of the Provincial/Regency/City DPRD in the 2004-2009 period, while to elect the President and Vice President on 5 July 2004 (round I) and September 20, 2004 (Round II).³⁰

In the next period of elections in 2009 is the third election during the reform period held simultaneously on April 9, 2009, to choose 560 Members of the House of Representatives, 132 DPD Members, as well as members of Provincial/Regency/City DPRD in Indonesia period 2009-2014. While electing President and Vice President held on July 8, 2009.³¹ simultaneous elections is a constitutional mandate, and will certainly lead to the effectiveness and efficiency of elections, as well as the right of citizens to choose intelligently, so that elections will simultaneously be more efficient and financing the implementation of more money saving countries derived from taxpayers and the results of exploitation of natural resources and other economic resources.³² The existence of elections held

³⁰ Komisi Pemilihan Umum, 2010, Jilid 1 Pemilu Untuk Pemula “Sistem dan Peserta Pemilihan Umum”, Jakarta, p. 19.

³¹ Ria Casmani Arrsa, *Op.cit.* p. 520.

³² Septi Nur Wijayanti, Titin Purwaningsih, 2015, *Desain Pemilihan Umum Nasional Serentak dalam Perspektif Hukum dan Politik*, Penelitian Hibah Bersaing, Fakultas Hukum Universitas Muhammadiyah Yogyakarta, p. 27-28.

simultaneously will encourage the political party more carefully in determining the direction of cauterization, whether toward legislative members, or toward the President and Vice President, and the future towards the candidate head of the region at which level. Simultaneous elections are also often associated with opportunities to elicit alternative executive leaders. It is the implementation of elections simultaneously is also often associated with savings and prevention of political corruption, along with the prevention of money politics that can reach hundreds of trillions.³³

B. Local Democracy

Indonesia is the state based on democratic principle, so the general election is the real form of the existent of the democratic state. General election often identifies as the democratic tools. It means to establish the authority of the sovereignty system.³⁴ Democratic derived from Greek which consists of two-word *demos* which means people and *cratein* which means govern. Thus in terminology, democratic means government of the people by the people and to the people.³⁵

According to Moh. Kusnardi and Harmily Ibrahim in the sovereignty understanding (democracy), people consider as the owner and the highest authority holder in the state. The people who determinate the feature and the people also determine the purpose who will be

³³ Ria Casmani Arrsa, *Op.cit.* p. 523-524.

³⁴ Saleh, 2017, *Hukum Acara Sidang Etik Penyelenggara Pemilu*, Jakarta Timur, Sinar Grafika, p. 47.

³⁵ Bondan Gunawan, 2000, *Apa Itu Demokrasi*, Jakarta, Pustaka Sinar Harapan, p. 1.

reached by the state and the government.³⁶ An according to Henry B. Mayo the definition a democratic political system is one in which public policies are made on a majority basis, by representatives subject to effective popular control at periodic elections which are conducted on the principle of political equality and under conditions of political freedom.³⁷

Democracy as the important aspect which related to the government with the authority hierarchy that occurs in the state political system there is a sub-regional political system in the form of a state system that used by the political system. Local democracy addressed as the whole part form the Indonesian democracy in the requirement of political elite implementation in regional government in Indonesia. 718 local democracies are the sub system from democracy which gave the opportunity for the regional government relation with the society in the environment.

Local democracy is built to provide the portion which local people should obtain by the local people in giving legitimacy to their executive elite. So far, the people of the region people give sovereignty only to the regional legislative only through the legislative elections. Thus, referring to Montesquieu's concept on trias political the separation of powers over the three state institutions to the context of local government located in the executive and legislative institution of the region, while in the framework of the judiciary it centers on a central institution. This is

³⁶ Jimly, Asshddiqie, *Opcit.* p. 414.

³⁷ Ni'matul Huda, 2016, *Hukum Tata Negara Indonesia*, Jakarta, Rajawali Pers, p. 266.

related to the pattern of central government relations in the principle of decentralization. People's sovereignty in the framework of the governance system can be divided into the national and local democratic hierarchy of political recruitment procedures.

C. National and Local Election

A national election is election to elect the President and Vice President, legislative members, and Regional Representative Council (*Dewan Perwakilan Daerah*) here in after DPD members, are held simultaneously. While, local election is the elections to elect governors and regents or mayors, as well as members of Provincial DPRD and district or city DPRD members, also held simultaneously. In Law No. 42 of 2008 on Presidential Election and Law No. 8 of 2015 on Regional Head Election, candidates are proposed by political parties or coalitions of political parties that reach 20 percent of seats or 25 percent of national votes. The requirements of political parties that should be fulfilled in participating in national elections and local elections which propose the candidates is to achieve the government effectiveness.

The implementation of national election (General Election and Vice Presidential, General Election of DPR and DPD Members) is concurrently separated around 24-30 months from the time of the local election implementation (head elections and deputy regional heads, elections to DPRD members) is expected to produce a number of political

consequences that is positive not only for the effectiveness of presidential government and local government however there is also for the consolidation of Indonesian democracy.

Some of the benefits of the national election and local elections implementation:

1. Simplify the number of political parties naturally and democratically without wasting a large number of legitimate votes;
2. The effectiveness of presidential government because the president will get solid support from the DPR, not only it comes from the same party coalition but also because it has the same mission and program;
3. National Elections held ahead of the Local Elections will not only facilitate the synergy of national policy with regional policy but also the synergy of party coalitions at the national level with party coalitions at the local level;
4. National elections will focus on national issues, while local elections will focus on local issues;
5. The voter's sovereignty is increasing because voters will demand the accountability for state election organizers in local elections, and demand accountability of state-run organizers resulting from local elections in national elections (parties or candidates who implement what is promised to be re-elected, while the party or candidate

which does not implement what is promised will be abandoned by voters); and

6. The implementation of elections will be more efficient in three aspects. First, the General Election Commission (*Komisi Pemilihan Umum* here in after KPU) and the entire staff will be able to prepare, plan, implement and control the elections more efficiently. Second, the cost of local elections will be more efficient as they change the funding from three times of funding to one-time election funding. Third, the members and staff of the Secretariat general of KPU at the national and regional levels will work throughout the year.

D. Local Leadership and Autonomy

Government leadership in Indonesia is one type of leadership in government or leadership which run by government officials. Leadership is a personality that has influence. Leadership is one of the mobilizing and the latter is one of the functions of management, so it is natural that leadership must be learned by officials.³⁸ A leader should not only possess the ideal character but also because of situational factors that allow a person to become a leader. The succession of a leader is influenced by the factor of ability to understand the problem, the ability to analyze the

³⁸ Pamudji, 1995, *Kepemimpinan Pemerintahan di Indonesia*, Jakarta, Bumi Aksara, p. 1.

situation and the ability to solve the problem so it is to provide the solutions expected by the community.³⁹

According to Larry Stout, professor of Stockholm School of Economics in Cambridge University proposed six lead capacity requirements and four leadership conditions which are required for successful leadership. The six Leadership Capital are (1) Vision, (2) Values of virtue which is the value of the leader's philosophy, (3) Wisdom, (4) Courage, (5) Confidence and (6) Ability to influence others.⁴⁰ Leadership conditions that can influence a success leadership are (1) The right place where the leader exists, (2) The time period when the leader gets the calling assignment as a leader, (3) Position that can be used to gain authority and (4) society or followers who are willing to make it a leader.⁴¹

Being a leader should not only have a leader's ideal character but it must also be supported by the situational factors that enable a person to become a leader. The success of a leader is influenced by the ability to understand the problem, the ability to analyze the situation and the ability to solve the problem so it can provide the solutions through the whole society. Local governments are an indispensable link, a channel of government in making contact with the society. It is the only way for all

³⁹ Susilo Utomo, *Kepemimpinan Lokal Era Pilkada Langsung*, Available at http://eprints.undip.ac.id/24427/1/Seminar_AIPI_Makasar_2008.pdf, Accessed on Monday, March 5th, 2018, 13.40 pm.

⁴⁰ Ibid.

⁴¹ Ibid.

the relationships with the society. He also became a public spokesman and also represented the society desires and interests.⁴²

Individuals, who have autonomy power in society, will be loved by the society, so they will not choose another leader. Regional autonomy is one form of democratic leadership, fair, done equitably, and has the potential to increase cooperation and progress and prosper a region. Regional autonomy is a step that is expected to accelerate the growth and development of the region, whether to create a balance of development between regions and Central government and local governments in Indonesia. The mechanism of regional autonomy is democratic in the context of the recruitment of leaders and the education of leaders' candidate in the regions, where the whole society have the right and freedom to choose their candidates, and the candidates compete in the same rules.

⁴² Philip Quarles van Ufford, 1988, *Kepemimpinan Lokal dan Implementasi Program*, Jakarta, Gramedia, p. 176.