



GENERAL ELECTIONS AS AN EMBODIMENT OF THE POLITICAL RIGHTS OF CITIZENS

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ABSTRACT

This study aims to analyze general elections as a manifestation of the political rights of citizens. General elections, as part of democracy, bring a lot of hope for the development and progress of democracy. The concept of democracy in general must emphasize the sovereign power of the people in the concept of democracy as the highest authority. Democracy requires public participation in evaluating policies that will determine people's lives in the future. In short, a democratic country is a country that is organized on the basis of the will and will of the people. General elections as part of the means of fulfilling the demands of democracy and provide the widest possible opportunity for the people to participate actively and directly in policy making by exercising their right to choose the leader they want. Therefore, in relation to the implementation of citizens' human rights, the government needs to guarantee the holding of regularly scheduled general elections. In accordance with the principle of people's sovereignty, where the people are sovereign, all aspects related to the holding of general elections must also be returned to the people to decide.

Keywords: Person Organization, Work Engagement, Intention

1. INTRODUCTION

The constitutional law perspective states that elections are also related to the principle of a rule of law, because the people choose and have trusted giving them the right to create legal products, implement and supervise them according to the will of the people.¹ Indonesian constitutional law expert, Jimly Asshiddiqie, elections are methods or mechanisms that are held in selecting people's representatives democratically. Jimly Asshiddiqie raised the concept of people's sovereignty with a representative system or what is often called representative democracy. In practice, those who exercise people's sovereignty are people's representatives who sit in people's representative institutions which are also called parliaments. The people's representatives act on behalf of the people, and it is the people's representatives who determine the style and way of working in government, as well as what goals will be achieved both in the long term and in the relatively short term. So that representatives of the people can really act on behalf of the people,²

The holding of elections cannot be separated from the rule of law principles. Election organizers are elements that play a very significant role in implementing the idea of substantive procedural democracy. Normatively, election organizers are the institutions mentioned in the laws and regulations to organize elections, these institutions are as stated in article 1 paragraph (7) of Law Number 7 of 2017 concerning General Elections, namely the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) and the Election Organizer Ethics Council

¹Andi Subri, General Election 2014: Rational Voters and Irrational Voters. Journal of Indonesian Legislation, Volume 9, Number 4, December 2013, p. 536.

²Jimly Asshiddiqie, Introduction to Constitutional Law, Rajawali Press, Jakarta, 2014, p.414.

(DKPP).³As for what is meant by the implementation of the election is the implementation of the stages of the election carried out by the election organizers.⁴ Therefore, it is not uncommon for some constitutional law experts to say that the organizers of elections are the captains of elections who determine how and in what direction elections will be anchored.⁵

Election according to Jimly Asshidiqie is a way to determine the people's representatives who sit in the people's representative institutions, so that this election system is very much influenced by the perspective of individuals or society in the country. Are they seen as individuals who are free to choose their representatives or are elected as representatives of the people or are they seen as a group unit so that they cannot make choices or nominate themselves to be elected.⁶ One manifestation of the current implementation of people's sovereignty in filling positions is the holding of General Elections. The implementation of people's sovereignty through the holding of General Elections is now equivalent to the implementation of the country's democracy.⁷ Elections are held by an independent and impartial state institution, namely the General Election Commission. The duties of the General Election Commission aside from being an election organizer, the KPU also plays a role in political outreach. Political outreach, although only about elections, but in a larger framework is closely related to the interests of the Indonesian nation to create a democratic government. Democratic government that is realized when civil society is strong or empowered.

2. RESEARCH METHOD

This research is a normative legal research that aims to analyze general elections as a manifestation of the political rights of citizens. This study uses a documentary study by collecting materials from the library as materials that form the basis for finding legal arguments in the subject of this research. The collected data were analyzed using qualitative analysis methods which emphasize the search for meaning behind the empirical aspects of social reality. The data analyzed qualitatively are presented in the form of a systematic explanation by explaining the relationship between various types of data, then all data is selected and analyzed, then analyzed descriptively to draw conclusions in this discussion.⁸

3. RESULTS AND DISCUSSION

Democracy grows in countries that apply the view as a rule of law, because the government must carry out its will based on existing legal regulations or exercise its powers based on laws.⁹ Immanuel Kant put forward the notion of a rule of law in a narrow sense, which places the function of *recht in staat*, only as a means of protecting individual rights and state power in a passive sense, whose duty is to maintain public order and security. Immanuel Kant's understanding is known as *nachwachkerstaats* or *nachtwachterstaats*.¹⁰ The conception of a democratic state as a rule of law has historical roots in the struggle for democratic values. Broadly speaking, the conception of a democratic state as a rule of law consists of two concepts, namely the rule of law and *rechtstaat*. In

³Law Number 7 of 2017 Concerning General Elections, Article 1 paragraph (7).

⁴*ibid.*, Article 1 paragraph (2).

⁵Ni'matul Huda and Imam Nasef, *Structuring Democracy and Elections in Indonesia*, Kencana Prenada, Jakarta, 2015, p.5.

⁶Jimly Asshidiqie, *Constitutional Law*, First Edition, Raja Grafindo Press, Jakarta, 2015, p. 215.

⁷Ramlan Surbakti, *Electoral System Engineering to Build Democratic Political Order*, Partnership, Jakarta, 2008, p. 15.

⁸Syaiful Asmi Hasibuan and Arifuddin Muda Harahap, *Non Penal Plocy As A Legal Protection Effeort Against Child Victims Of Sexual Violence*, *International Journal Of Humanities And Social Sciences (IJHES)* Vol 1 No. 5 of 2022, p. 665.

⁹Zahermann Armandz Muabezi, *State Based on Law (Rechtsstaats) Not Power (Machtsstaat) Rule Of Law And Not Power State*, *Journal of Law and Judiciary*, Volume 6, Number 3, November 2017, p. 437.

¹⁰Mustafa Lutfi, *Law on Election Disputes in Indonesia*, UII Press, Yogyakarta, 2010, p. 53.



practice, these two concepts have differences, it's just that in substance, the two do not have fundamental differences. The difference between these two concepts is clearly visible from their historical background. It can be seen that the concept of rechtsstaat is based on the European continental legal system or civil law which has an administrative character, while the rule of law concept is based on the common law legal system which has a judicial character.¹¹

The concept of a rule of law must guarantee that the law itself is built and enforced in accordance with democratic principles. Laws may not be made, determined, interpreted, and enforced on the basis of mere power (*machsaat*). The principle of the rule of law cannot be upheld by setting aside democratic principles. Therefore, it is necessary to emphasize that the people's sovereignty that is enforced is balanced with the affirmation that Indonesia is a people-sovereign and democratic constitutional state (*Demokratische rechstaat*).¹² The concept of democracy in general must emphasize the sovereign power of the people in the concept of democracy as the highest authority. The highest authority that exists in the people as part of the creation of the free will of the people.¹³ Democracy in a country is very important because democracy plays an important role in ensuring the functioning of state organizations. Democracy requires public participation in evaluating policies that will determine people's lives in the future. In short, a democratic country is a country that is organized on the basis of the will and will of the people.¹⁴

General elections, as part of democracy, bring a lot of hope for the development and progress of democracy. General elections as part of the means of fulfilling the demands of democracy and provide the widest possible opportunity for the people to participate actively and directly in policy making by exercising their right to choose the leader they want. General elections are a method of succession of leadership or government that is commonly carried out in democratic countries. There are two (2) dimensions of perspective on democracy, namely minimalist democracy and maximalist democracy.¹⁵ In the context of implementing minimalist (procedural) democracy, a maximalist perspective is also needed, so that democratic procedures are not colonized by actions outside procedures that can reduce the essence of democracy itself. Therefore, elections as instruments of procedural democracy must be carried out based on election principles and laws and regulations as substantive foundations.¹⁶

Democracy as the basis of state life conveys the notion that the people have voting rights in politics which will determine the people's lives in the future. In short, democracy is government of the people or government by the people.¹⁷ Simply put, the idea that a democratic state can be formulated is a state that is organized based on the will of the citizens of that country. The implementation of general elections is a means to channel the basic rights of citizens. Therefore, in relation to the implementation of citizens' human rights, the government needs to guarantee the holding of regularly scheduled general elections. In accordance with the principle of people's sovereignty, where the people are sovereign, all aspects related to the holding of general elections must also be returned to the people to decide.

Election organizers are elements that play a very significant role in implementing the idea of substantive procedural democracy. Normatively, election organizers are the institutions mentioned in the laws and regulations to organize elections, these institutions are as stated in article

¹¹Phillipus M. Hadjono, *Legal Protection for Indonesian People*, Development of Science, Surabaya, 1987, p. 72.

¹²Ni'matul Huda, *Indonesian Constitutional Law*, PT. Raja Grafindo Persada, Jakarta, 2010, p. 93.

¹³Hufron and Sofyan Hadi, *Contemporary State Studies: Theoretical Study of Origins, Purpose and Functions of the State, State of Law and State of Democracy*, Laksbang Graphic, Yogyakarta, 2016, p. 123.

¹⁴Siswanto Sunarno, *Local Government Law in Indonesia*, Sinar Graphic, Jakarta, 2008, p. 24.

¹⁵Ni'matul Huda and Imam Nasef, 2017, *Op.Cit*, p.51.

¹⁶Joko J. Prihatmoko, *Democratizing Elections, Collaboration between LP3M UN-Wahas and Student Libraries*, Semarang, 2008, p.12.

¹⁷Miriam Budiardjo, *Fundamentals of Political Science*, Jakarta, Gramedia Pustaka Utama, 2013, p. 105.

1 paragraph (7) of Law Number 7 of 2017 concerning General Elections, namely the General Election Commission (KPU) and the Election Supervisory Body (Bawaslu) and the Election Organizer Ethics Council (DKPP).¹⁸ As for what is meant by the implementation of the election is the implementation of the stages of the election carried out by the election organizers.¹⁹

The general election system that exists in Indonesia is carried out based on applicable legal provisions as a form of Indonesia as a legal state and is a form of respect for the human rights of citizens as the holder of the highest sovereignty. Therefore, General Elections can be declared inseparable from the political system, because they are interconnected and complement each other which is desired and carried out according to applicable law and sides with the interests of citizens in general. Besides that, because politics is an attempt to achieve a better life, in which this effort can be carried out in various ways even though it conflicts with one another. In conclusion, that politics in a country is closely related to power.²⁰

5. CONCLUSIONS AND RECOMMENDATIONS

The concept of a rule of law must guarantee that the law itself is built and enforced in accordance with democratic principles. Laws may not be made, determined, interpreted, and enforced on the basis of mere power (*machsaat*). The principle of the rule of law cannot be upheld by setting aside democratic principles. The concept of democracy in general must emphasize the sovereign power of the people in the concept of democracy as the highest authority. The highest authority that exists in the people as part of the creation of the free will of the people. Democracy requires public participation in evaluating policies that will determine people's lives in the future. In short, a democratic country is a country that is organized on the basis of the will and will of the people. General elections, as part of democracy brings a lot of hope for the development and progress of democracy. General elections as part of the means of fulfilling the demands of democracy and provide the widest possible opportunity for the people to participate actively and directly in policy making by exercising their right to choose the leader they want. The implementation of general elections is a means to channel the basic rights of citizens. Therefore, in relation to the implementation of citizens' human rights, the government needs to guarantee the holding of regularly scheduled general elections. In accordance with the principle of people's sovereignty, where the people are sovereign, all aspects related to the holding of general elections must also be returned to the people to decide.

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¹⁸Law Number 7 of 2017 Concerning General Elections, Article 1 paragraph (7).

¹⁹*ibid.*, Article 1 paragraph (2).

²⁰Miriam Budiardjo, *Op. cit.*, p. 8



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