

Participatory Democracy

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Abstract

This article will explain the public participation arrangement in the member-selection mechanism of the Local House of Representatives and how far the provision of political participation area for the public is in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives. The public participation arrangement in the selection of the Local House of Representatives member and the provision of public political participation area can be found in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives and each Articles of Association and Bylaw of the Political Party.

Keywords: democracy, participation

1. Introduction

Indonesia is a democratic country, which is government with the sovereignty of the people. The dynamics of democracy, undergoes a shift from direct democracy into indirect democracy. Direct democracy is governance by the people in which all the decisions are taken over by all the people who gather at the same time and at the same place, it can only happen in a very small country, both from the region and population (Mac Iver, 1988). Indirect democracy is a democracy run by the people's representatives, both from those sitting in the legislative institution and executive institution (Janedjri M.Gaffar, 2013). The form of the direct democracy is hard to be applied in Indonesia with its vast region and high population density. Such condition will later make Indonesia apply indirect democracy system by the people's representatives who sit in the executive institution and legislative institution.

The application of indirect democracy cannot be separated from people's control which supervises the process of the country management. The implementation of indirect democracy in order to choose the people's representatives is by conducting general election in certain period of time. The relation between democracy and general election is the existence of people's participation in the election process. The general election is a great momentum of the implementation of the citizens' rights in creating sovereignty. Public participation in the general election process is a medium in conveying aspirations and their needs to the candidates of representatives which they will choose. The higher the quality and the quantity of people's participation, the higher the success level of the general election will be.

Indonesia has Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives which regulates public participation in the legislative member election, but in practice, it was seen in the legislative election in 2004, 2009, and especially in 2014 that the public participation was not carried out well. People who participated in the campaign or the introduction of legislative candidates were only a form of formality because the main objective was to obtain some material things. Such form of participation causes lacks of people's knowledge of the legislative candidates carried by the political party in the general election. People merely know the name of the legislative candidates without knowing the capability and self-quality of the legislative candidates. The exclusion of the people in the process of determining the legislative candidates by political party in the general election, shows that people's participation in carrying a general election out is still very little. The lacks of people's participation is contrast with what has been regulated in the act about the people's participation in general election. With such condition, the discussion in this article will focus on two main problems, they are: (1) the arrangement of public participation in the member-selection mechanism of Local House of Representatives in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives; (2) the provision of public political participation area in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives.

2. Discussion

2.1 *The Arrangement of People's Participation in the Member-Selection Mechanism of the Local House of Representatives in Act Number 8 Year 2012 On the Election of the Member of the Central House of Representatives, the Regional House of Representatives, and the Local House of Representatives*

2.1.1 Based on Legal Acts

Herbert Mc. Closky opined that participation is voluntary activities from the people by taking part in the process

of ruler election and directly or indirectly in the process of policy-making (Herbert Mc.Cloasky, 2010: 180). While according to Ramlan Surbakti, political participation is the involvement of common citizen in deciding all the relating or influencing his or her life (Ramlan Surbakti, 2007: 140). Miriam Budiardjo defined political participation as one's or a group of persons' activity to actively participate in political life by directly or indirectly electing the head of the state, influencing government's policy (Miriam Budiardjo, 1982: 12). From the opinions of those experts about the definition of political participation, it can be concluded that participation is a form of people's participation in the representatives or the head of the state electoral process as the caretaker of governmental activities, in which the activities are strongly related to the people's prosperity.

The arrangement of people's participation in the legislative election is located in Article 36 section (3) and (5), Article 62 section (5), Article 63 section (2) and (4), Article 142 section (6), Article 155 section (2), Article 147 section (7) and Article 180 section (1) and (2) Act Number 8 Year 2012 on the election of the member of the Central House of Representatives, the Regional House of Representatives, and the Local House of Representatives. The regulation on people's participation in legislative election is specifically arranged in Chapter XIX on People's Participation in the Realization of Election that consists of Article 246 until Article 248. Article 248 sets that people's participation in legislative election is arranged in the General Election Commission Rules, specifically in General Commission Election Rule Number 23 Year 2013 on People's Participation in the Realization of General Election. The table below shows the people's participation rules in legislative election set in the legal act.

People's Participation in the Legislative Election based on the Legal Act

No.	Legal Act	Regulation
	Act Number 8 Year 2012	
	a. General	
1.	Article 36 section (3)	Temporary voters list is announced for 14 (fourteen) days by the Voting Committee to gain public's input and suggestion.
2.	Article 36 section (5)	Public's input and suggestion and General Election Participants, as written in section (3) and section (4) are accepted by the Voting Committee maximum 21 (twenty one days) since the temporary voters list was announced.
3.	Article 62 section (5)	Public's input and suggestion are delivered to the General Election Commission, Provincial General Election Commission, or City/Regency General Election Committee maximum 10 (ten) days after the temporary voters list was announced
4.	Article 63 section (2)	The leader of political party has to give chance to the relevant candidates to clarify public's input and suggestion.
5.	Article 63 section (4)	In case the result of clarification as written in section (3) stated that the temporary candidate does not meet the requisite, General Election Committee, Province General Election Committee, and City/Regency inform and give the chance to political party to send alternative candidates and the upgraded list of temporary candidates.
6.	Article 142 section (6)	The provisioning of voting equipment as written in section (1) letter g is carried out by the Voting Committee affiliating with the public.
7.	Article 155 section (2)	The General Election participant witness, the General Election supervisor, the General Election observer, and the public deserve to attend the Voting Committee activity as written in section (1).
8.	Article 174 section (7)	The vote-counting of Political Party Competing in General Election and the vote of the member candidates of the House of Representatives, Regional House of Representatives, Provincial House of Representatives, and City/Regency House of Representatives in the polling station are observed by the General Election observers and the public.
9.	Article 180 section (1)	The General Election participant, witness, the General Election Field Observer/Abroad General Election Observer, and public may send allegation report of violation, deviation, and/or mistakes in the realization of vote-counting to the Voting Committee/Abroad Voting Committee.

No.	Legal Act	Regulation
10.	Article 180 section (2)	The General Election participant and public through the General Election participant witnesses or the General Election Field Observer/Abroad General Election Observer who are present can send objection to the running of the vote-counting by the Voting Committee/Abroad Voting Committee in case there are improper things on the legal act's regulation.
	b. Specific	
11.	Article 246	(1) General Election is carried out with public participation. (2) Public participation as mentioned in section (1) can be conducted in the form of General Election socialization, politic education for the voters, survey or polling on General Election, and General Election result's quick count, with the following rules: <ol style="list-style-type: none"> a. not doing any alignment act which benefits or harms the General Election participants; b. not offending the process of General Election realization; c. aiming to increase public's political participation extensively; and d. supporting the creation of conducive atmosphere for the realization of safe, peaceful, correct, and smooth General Election.
12.	Article 247	(1) Public's participation in the form of General Election socialization, politic education for the voters, survey or polling on General Election, and General Election result's quick count are obliged to follow the provisions arranged by the General Election commission. (2) The announcement of survey or polling result of General Election as mentioned in section (1) is carried out in the Cool Off Period. (3) The General Election quick count caretaker is obliged to enroll to General Election Committee maximum 30 (thirty) days before the voting day. (4) The quick count caretaker is obliged to inform the fund source, the method used, and the result of the quick count is not an official result from General Election executor. (5) The announcement of the General Election quick count estimation may only be done in 2 (two) hours after the voting in the western region of Indonesia is done. (6) Any violation to section (2), section (4), and section (5) is considered General Election crime.
13.	Article 248	Further provisions on the realization of public participation in the execution of General Election are set on the General Election Committee regulation.
	General Election Committee Regulation Number 23 Year 2013	
14.	Article 8 section (1)	Public participation in the General Election may be carried out in the form of : <ol style="list-style-type: none"> a. public involvement in the realization of General Election; b. General Election socialization; c. politic education for the voters; d. survey or polling; e. General Election result's quick count; and f. General Election observation.

No.	Legal Act	Regulation
15.	Article 10	Public involvement in regulation making as written in Article 9 letter a, may be in the form of: a. doing identification or giving suggestion to the law requirements in accordance with the regulation or the legal act which will be made; b. supporting the authorities to establish the legal act immediately; c. research on the development of law requirements based on the regulation or the legal act which will be made; d. expertise assistance in the making of academic text and/or the legal draft. e. attending the court session on the discussion of policy or regulation drafting that is announced open for public; f. distributing the regulation or the legal act; g. supporting/providing the regulation realization resource and legal act; h. legal company or legal assistance; i. sending allegation to the prevailing of the regulation or legal act; j. observation and assessment on the realization of regulation or legal act.
16.	Article 11 section (2)	Public involvement as mentioned in section (1) are : a. becoming the General Election officer; b. giving input/suggestion to the realization of General Election phases; and c. becoming the activist General Election participants.
17.	Article 12	Public involvement in the evaluation of the General Election realization as mentioned in Article 9 letter c, may be in the form of : a. participating in the management evaluation meet according to each work scope and function and other corresponding sides, and; b. giving input or suggestion for the improvement of General Election according to the evaluation results.
18.	Article 13	General Election socialization as mentioned in section (1) is carried out in order to : a. distribute the information of stages, schedule, and General Election program; b. increase the knowledge, understanding, and public's capability on General Election; and c. support the improvement of voters participation.
19.	Article 16 section (2)	Politic education for the voters as mentioned in section (1) is carried out in order to : a. build political knowledge; b. grow political awareness, and; c. improve politic participation.
20.	Article 20 section (2)	Survey or polling as mentioned in section (1): a. survey on voters' behavior; b. survey on the General Election result; c. survey on General Election institutions, such as General Election executor, political party, parliament/legislative, government; d. survey on the candidates of the House of Representatives, Regional House of Representatives, and Provincial House of Representatives, City/Regency House of Representatives, the candidates of President and Vice President, the candidates of Governor and Vice Governor, and the candidates of Mayor and Vice Mayor.

2.1.2 Based on the Articles of Association and the Bylaw of Political Party

In the realization, democracy needs participation from the political parties which can have effective role. Democracy also needs strong and capable political parties in order to connect public's importance and offer policies to show their capability for public's sake (Ahsin Thohari, 2012). Besides that, public and political parties can affiliate in order to bring the realization of successful legislative election both from the quality and the quantity into reality. The inclusion or the exclusion of the public in political activities especially in the legislative election on the determination of legislative candidates can be observed from the Articles of Association and the Bylaw of

Political Parties. The following table shows The Regulation Ratio of Public Participation in The Selection Mechanism of The Candidates of The Local House of Representatives Based on the Inter-Party Recruitment System:

PARTY	Candidates of the Local House of Representatives Recruitment System		Public Participation
	Article of Association/Bylaw	Other Party Regulations	
PAN	Not Regulated	Regulated in the Provision Letter of the National Work Meet of Partai Amanat Nasional Number 5 Year 2007 on the Early Candidacy of Regency/City House of Representatives and the Provision of National Work Meet of Partai Amanat Nasional Number 6 Year 2007 on the Early Candidacy of the Provincial House of Representatives	Not Regulated
PDI-P	Not Regulated	Regulated in the Provision Letter Number 061/TAP/DPP/III/2013 on the Method of Networking, Filtering, Determining, and Registration of the member candidates of the House of Representatives, Provincial House of Representatives, and Regency/City House of Representatives in the 2014 General Election	Regulated in the Technical Guidance of Networking, Filtering, Determining and Registration of the member candidates of the House of Representatives, Provincial House of Representatives, and Regency/City House of Representatives of PDI-P
Demokrat	Not Regulated	Regulated (the researcher does not get the referred political party regulation)	Regulated (not clearly mentioned)
Gerindra	Not Regulated	Regulated in the Handbill Number 122/Sek/A/XI/2012 Regional Leader Council of Partai Gerindra and the Provision Letter of Regional Leader Council of Partai Gerindra Number 04-235/Kpts/BACALEG/DPP-GERINDRA/2013	Regulated (not clearly mentioned)
Golkar	Not Regulated	Regulated in the Decision of Central Leader Council of Partai Golkar Number: KEP-227/DPP/GOLKAR/I/2013 on the Compiling Guidance of the List of Member Candidates of the Indonesian House of Representatives, Provincial House of Representatives, dan City/Regency House of Representatives of Partai Golkar	Not Regulated
Hanura	Not Regulated	Regulated (the researcher does not get the referred political party regulation)	Not Regulated
Nasdem	Not Regulated	Regulated (the researcher does not get the referred political party regulation)	Not Regulated
PKS	Regulated in Article 28 section (3) of the party's Article of Association	Regulated in the Organizational Guidance of PKS	Not Regulated
PKB	Not Regulated	Regulated (the researcher does not get the referred political party regulation)	Not Regulated
PPP	Not Regulated	Regulated (the researcher does not get the referred political party regulation)	Not Regulated

The Regulation Ratio of Public Participation in The Selection Mechanism of The Candidates of The Local House of Representatives Based On The Inter-Party Recruitment System.

2.2 *The Provision of Public Political Participation Area to the People in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives.*

2.2.1. Based On the Sovereignty Theory

Direct General Election which is carried out in Indonesia is a representation of the realization of indirect democracy. Indirect democracy is a part of sovereignty, meaning that democracy is run by the people's representatives who sit in the legislative and executive institution (Janedjri M. Gaffar, 2013). The characteristics of democracy according to N.D. Arora and S.S Awasthy in Janedjri M.Gaffar are the responsibility of the government to those who are being governed, government also needs to be elected by those who are being governed or by the representatives of those who are being governed. Therefore, votes and general election are needed as the primary media to carry the sovereignty out (Janedjri M.Gaffar, 2013).

Public participation in general election is the representation of the Luber Jurdil principle and the democratic general election principle. In addition to becoming the form of the application of the principles, the existence of public participation in general election is also a true form of sovereignty. Where people having the highest power in a government deserve and shall participate in the electoral activity which is held by the country in order to choose their representatives who will make policies and everything related to their importance. The public participation in the general election does not only exist in the realization of voting rights, but in the process of determining the legislative candidates who will become the general election participants. Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives facilitates Indonesian citizens to participate in the general election. The Act also gives mandate for the making of further regulations on public participation in the general election.

Based on the regulations in Act Number 8 Year 2012 The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives and the Regulation of General Election Committee Number 23 Year 2013 on the Public Participation in the Realization of the General Election, it is obviously regulated that public participation does not only exist in the general election, but exists before the realization of general election as well. Therefore, Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives regulates that public participation in the general election is conducted by giving chance to the public to give input and suggestion that are related to the Candidates of the Provincial House of Representatives or the Candidates of the City/Regency House of Representatives which are announced by the political parties before being registered to General Election Committee. From the 10 (ten) Articles of Association and Bylaw of the political parties that have been explained before, it can be concluded that the primary form of public participation in political party is the freedom-giving to all Indonesian citizens to become the members of the political parties. Based on the regulation of Article 8 General Election Committee Regulation Number 23 Year 2013 on The Public Participation in The General Election as mentioned in the first sub-chapter, political socialization and education should be given to public. Which in this case, political socialization and education become the responsibilities of political party, observed from the political party's responsibility to give political education and to socialize the programs of the party.

2.2.2 Based on the Political Recruitment Theory

Political recruitment is an involvement process of individual or groups of individual in political roles actively (Sigit Pamungkas, 2011). Based on the main problem of this codification, so the referred political recruitment is the public or certain societies involvement in the selection process of legislative candidates conducted by political party. Public participation in the recruitment of legislative candidates conducted by the political party can be in the form of public participation to register the legislative candidates from certain political parties. Giving the chance to public to give input or suggestion about the list of legislative candidates promoted by political party is also a form of public participation in the process of legislative candidates recruitment. The seriousness of political party in public involvement is also needed to be written in the Articles of Association and Bylaw, and the Letter of Decree or Other Political Party's Rules or Guidance The arrangement is done so that it may become the guidance for the public to give input and/or suggestion about the legislative candidates list to the political party.

Based on the study of the Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives in providing the public participation area in general election, especially in the member-selection mechanism of the Local House of Representatives, it can be concluded that the act has some weaknesses. In which those weaknesses cause ineffectiveness to Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives in providing public political participation area. The weaknesses of Act Number 8 Year 2012 on The Election of The Member of The

Central House of Representatives, Regional House of Representatives, and Local House of Representatives according to political recruitment theory from Sigit Pamungkas are as follows:

- Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives does not specifically and clearly regulate the public participation in each voting process that has to be applied in legislative candidates recruitment by the political party. Regulation on the public participation in each candidate-voting process is blur, in which the act only stated that people deserve to give input and suggestion to the temporary legislative candidates list proposed by the party. It is not a specific regulation that regulates the form of public participation in the general election, in which the regulation is considered general because it is not included in Chapter XIX on Public Participation in General Election Realization. Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives stated in a specific chapter regulation that the form of public participation in the general election before the list of fixed legislative candidates is determined is in the realization of general election socialization, political education for the voters, survey and polling which are not applied in the Article of Association and the Bylaw or in other party regulations owned by the 10 (ten) political parties above. It is obvious that Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives does not insure the public participation in legislative candidates recruitment, so it makes the political parties to not applying the regulation on public participation that has been regulated in the law ke dalam praktek rekrutmen caleg yang dilaksanakannya.
- Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives does not exactly regulate those who deserve to become the candidate selectors in the Local House of Representatives member-selection mechanism. Based on the recruitment system stated by Sigit Pamungkas, that there are only 2 (two) types of selector which are inclusivity and exclusivity. Inclusivity is the selector which comes from the voters owning the right to vote, while exclusivity is the selector which comes from the party leader. The regulation in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives does not exactly determine which selector decides the candidates, in which the law does not only give most of the authority to the party-caretaker, but also stated that people can decide which candidate can pass. In the realization, although people is included as the selector, the political party does not fully apply the regulation because in the Article of Association and the Bylaw or Other Party Regulation does not mention the things that are also regulated in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives about who deserves to select the candidates.

Two weaknesses of Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives that have been mentioned above cause the realization of direct general election that has been existed so far to not complying the principles that should be applied to the country practicing democracy based on the sovereignty. According to Ni'matul Huda, there are 3 (three) things which becomes the parts of democratic country, they are the existence of political rights, representatives, and freedom of the people (Ni'matul Huda, 2009). Those three things which are not given by Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives, are:

- Political rights
The country gives the right to be elected to all Indonesian citizens with no exception by the existing legal act. The application of the right to vote becomes more and more limited, because the recruitment system applied by the political party gives the priority to its cadres or other party managers to fill the list of legislative candidates. Political party only provides limited room for the people outside the party management to become the legislative candidates that can participate in the general election, then the people are being eliminated until the candidates who remain are those who have the biggest influence and can assure victory to the political party. The party's authority is supported by the regulation from Article 7 Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives which stated that the participant of general election of the House of Representatives and the Local House of Representatives is political party, so political party has the freedom to determine the requisites to becoming the legislative candidates of the party.
- Representation
The representation element of the people to the members of the Local House of Representatives is doubted because of the recruitment system applied by the political party. In which the political party is not fully

participating the public to determine its legislative candidates. The legislative candidates determined by the party are considered the party's representatives, because most of them come from the party caretakers. Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives which does not regulate the percentage of the legislative candidates from within and outside the party management causes the legislative candidates proposed by the party to not comply the representation element.

- The Freedom of The People Rights

The non-fulfillment of the two main things above shows that the freedom of the people has been violated. In which the people cannot have the freedom to use political matter such as the right to be elected in the legislative general election. In terms of representation, the freedom of the people is also limited, in which the public is not involved or not given its participation area to determine the legislative candidates who will become the general election participants.

3. Conclusion

The public participation arrangement on the Local House of Representatives member-selection mechanism exists in Article 36 section (3) and (5), Article 62 section (5), Article 63 section (2) and (4), Article 142 section (6), Article 155 section (2), Article 174 section (7) and Article 180 section (1) and (2) Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives and each Article of Association and the Bylaw of the political party.

The provision of public political participation area in Act Number 8 Year 2012 on The Election of The Member of The Central House of Representatives, Regional House of Representatives, and Local House of Representatives based on the sovereignty of the people theory is by giving input and suggestion on the Candidates of the Member of Provincial House of Representatives or the City/Regency House of Representatives which are announced by the political party before being registered to the General Election Committee and based on the political recruitment theory which is conducted by giving the chance to the public to give input and suggestion to the political party about the list of the legislative candidates proposed by the related political party.

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