

The Essence of the Presidential Election as a Political Education Instrument

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Abstract

The principle of people sovereignty in the state's administration in its implementation is reaffirmed in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. There are 2 (two) basic essentials of regulation of the election of the President as an instrument of political education, first – Facilities to Increase Political Participation *can be approached in to some laws such as the 1945 Indonesian Constitution, the Law Number 23 of 2003 concerning the Election of the President and Vice President, the Law No. 42 of 2008 concerning the Election of the President and Vice-President, and The Law No. 7 of 2017 concerning Elections*; Second, Realizing Responsible Governance. It means that General election is universally interpreted as an institution as well as a political practice that enables the formation of a legitimate government. Therefore, elections are not only related to the facility for the people to articulate their aspirations and interests, but also become a test tool for the validity of government power. Therefore, the nature of the presidential election arrangement is as a facility of increasing citizens' literacy and political awareness. Therefore, they can actively raise awareness and participation of the people's politics and create a responsible government as a constitutional mandate.

Keywords: Presidential Election; Political Education.

1. Introduction

The principle of people sovereignty in the state's administration in its implementation is reaffirmed in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which explicitly stipulates that sovereignty is in the hands of the people and carried out according to the Constitution.¹ Basically, the sovereignty of the people gives the meaning that the administration of state government must be sourced and rests on the interests and will of the people. This means that the will of the people through people's participation is one of the very fundamental factors in the administration of government. In terms of it, the people's participation is guaranteed in the constitution.

One of the manifestations of the will of the people (the people's participation - political participation) in the framework of the implementation of the people's participation in the administration of government is the recognition of citizens to actively participate in determining the form of governance.² To fulfill the people's sovereignty, it is carried out through general elections.³ The Election essentially is a facility of implementing of the state's sovereignty which is carried out in a general, free, secret, honest, fair and direct manner in the Unitary State of the Republic of Indonesia based on the Pancasila and the 1945 Constitution of the Republic of Indonesia.

In the election (including the Presidential Election) basically are instruments of democracy to move sovereignty from the people to state power, which then changes its shape to implement government and lead the people as an effort to achieve the state's ideals.⁴ In other words, the election is a forum for the people to use their constitutional rights to elect the desired leader. Thus, the essential meaning of the presidential election is a tool to select and conduct ongoing government leadership evaluations to determine whether it is feasible to continue or replace with a better one. The voters are the holders of sovereignty in order to evaluate leaders and in term of it they must be provided with adequate political education.

In the Indonesian context, the function of the general election as a tool of political education becomes important if it is connected with the ideals of the founding fathers, which are contained in the Fourth Paragraph for the Preamble of the 1945 Constitution of the Republic of Indonesia which states " to form a government of the state of Indonesia which shall protect all the people of Indonesia and all the land and its territorial integrity

¹ See the third amendment of the 1945 Indonesian Constitution. Before the amendment, article 1 paragraph (2) of the Constitution states that the sovereignty is in the hand of people and carried out by the People's Consultative Assembly.

² The implementation of the guarantee of the political participation is governed in the Law No. 12 of 2005 concerning Guarantee and Protection of the State to the Civil and Political Rights of the People such as the rights to express opinion, the right to assembly, the rights to vote and to be voted, the rights of equal in front of the law and governance, and the rights to get justice.

³ See Article 22E of the Constitution. It states that the General election is conducted in a general, free, secret, honest, fair and direct manner.

⁴ See Ratna Dewi, *Position and Function of the Election Supervisory Body in Embodying the good General Election* (Kedudukan dan Fungsi Badan Pengawas Pemilu dalam Mewujudkan Tata Kelola Pemilu yang Baik), Dissertation, Program Pascasarjana Universitas Hasanuddin, Makassar, 2016, p.113.

that has been struggled for, and to improve public welfare, to educate the life of the people ...".

The statement of the founder of the state as stated above, by Hans Kelsen is referred to as "common will" or "common interest". The consequence of the "common will", the state itself has the duty and obligation to realize "common will" become a reality.¹ It can be said, therefore, that as a consequence of the Preamble of the 1945 Constitution of the Republic of Indonesia, the organization of elections (the presidential election) should serve to foster awareness and participation of people. On the other hand, the implementation of elections becomes a filter to create nation leaders who are able to expand and realize the mandate founder of the state. Thus, political life can be guided towards achieving national ideals as mandated in the Preamble of the 1945 Constitution of the Republic of Indonesia.

2. The Basic Essence of Presidential Election as Political Education Instrument

If it is connected with the will of the founding fathers as mentioned above, then there are 2 (two) two basic essentials of regulation of the election of the President as an instrument of political education, namely:

1. Facility to Increase Political Participation.

The regulation of the president's election as an institution of political education in raising awareness and political participation of the people, which is inseparable from the regulation and practice of previous the presidential elections, especially in the New Order era which was full of power interventions. It is Inevitably that in the practice of general elections in the New Order, the intervention and dominance of the government are very strong, so that people's political participation is full of engineering and pressure. According to Herman Sinaulan, the general election in New Order did not take place on "direct manner and freedom" as well as "fair and justice". It is because the partiality and involvement of the government at that time as the main perpetrators of certain interests. Meanwhile, the people in general do not have a good bargaining position and are unable to do so.²

The practice of conducting elections in the New Order was influenced by the terms of intervention and engineering as mentioned above. It shows 5 (five) fundamental problems in the regulation and implementation of elections in the New Order era. *First*, the existence of dominance and the role of the government were very large and on the contrary were very minimal community involvement in almost all institutional levels and the election process. This was reflected in the institutional structure and election committee. *Second*, regarding the election process. It could not take place honestly and fairly because there was an overriding bias or overtly bureaucratic apparatus to one of the election participants, namely Golongan Karya (Golkar). The process of implementing the election was distorted because government officials at all levels were at the same time also administrators of Golkar and Election Organizing Committees. The Governor and Regent, for example, were not only become the Head of the Regional Election Committee (PPD) I and PPD II, but also each as Head of the Advisory Council and Head of the Advisory Council of the local Golkar (DPD). Likewise, the Head Sub-District (Camat) and the Head of the Village (Lurah) were the Golkar Commissioners in their respective regions. *Third*, the government monopoly in one of the stages of the election was very important, namely the vote counting stage. At this stage, it was almost no outside parties other than Golkar was fully involved in the counting process. This fact provided an opportunity for fraudulent and manipulative political practices. *Fourth*, there was a lack of supervision for each holding the election organizer. This provided an opportunity for election organizers to be involved in winning one of the election contestants. and *Fifth*, the regulation and enforcement of sanctions was not effective.

The wave of reforms in 1998 culminated in the fall of the New Order regime as a public reaction to authoritarian regimes, which did not provide space for the public to actively participate in the democratic process including the change of national leadership (presidential election). Through the Amendment to the 1945 Constitution as part of the demands for reform, it has shifted the authority of the People's Consultative Assembly (MPR) in electing the President into the hands of the people through direct elections. Ideally, the direct election is a form of public political participation born of political awareness. The political awareness arises when it is accompanied by adequate political education. This political education is the foundation for efforts to realize a substantive democratic life in order to realize the ideals of the nation. But the fact, the presidential election at the beginning of the reform era did not open enough space for the public to actively participate in the election process. Therefore, the presidential election arrangement should be able to provide literacy and political education, especially as a facility of encouraging political participation in realizing and guarding the achievement of the ideals of the nation as mandated in the Preamble of the 1945 Constitution of the Republic of Indonesia.

The political participation in a democratic country is a very important issue and even is very substantial. It is because one indicator of the quality of democracy is determined by the high and low and how the political

¹ Indra Perwira, *the State Responsibility in Fulfilling the Rights of Health Based on the 1945 Indonesian Constitution* (Tanggung Jawab Negara Dalam Pemenuhan Hak atas Kesehatan Berdasarkan Undang-undang Dasar 1945), Dissertation, Universitas Padjadjaran, Bandung, 2009, p. 177.

² J. Herman Sinaulan, *The Arrangement of the General Election to Support People Sovereignty* (Pengaturan Pemilihan Umum yang Mendukung Kedaulatan Rakyat), Dissertation, Padjadjaran University, Bandung, 2011, p. 318.

participation is carried out.¹ The political participation in question is the activity of a person or group of people to actively participate in political life, among others by choosing state leaders and directly or indirectly influencing government policies.² These activities include voting in elections, attending public meetings, conducting polls, holding relations with government officials or parliamentary members. Thus, people's political participation can be divided into two, namely electoral political participation and non electoral political participation. The electoral political participation consists of – first - participation in the democratic process (elections) which includes political education, opinion polls, and being a manager of political parties; and second, participation through voting in elections. The participation of non-electoral politics itself is formed through interest group.

Describing the form of democratic life in the political participation will only grow and develop on the basis of participant political culture. It means that political culture is characterized by each person's awareness of every right and responsibility or obligation he/she has and/or he/she can realize and use his/her rights and bear obligations.³ In this case, someone can adjust with full awareness the totality of the state's life system in order to be involved in the political process. In essence, the political participation is not only a right, but also a responsibility. The importance of the responsibility of citizens in the political participation is intended to avoid the people's participation carrying out inappropriate ways. According to Laica Marzuki, the people (citizens) should consciously live up to its position as the holder of sovereignty, as stated in the articles of the constitution, especially Article 1 paragraph (2) of the 1945 Indonesian Constitution.⁴

The importance of awareness and responsibility of citizens has been practiced in Ancient Greek life. Since two thousand years ago the Ancient Greeks acknowledged that basically humans were social beings. Political life was the basis of social order. The failure of participation caused a person to lose a large dimension of his human potential.⁵ The concept of political participation is based on the idea that sovereignty is in the hands of the people. Therefore, the political participation and political rights basically depart from the desire to create a democratic state life directly. In other words, the right to associate, assembly and express opinions, as an embodiment in political participation, becomes an important part of the concept of elections.

Procedurally, the quality of an election can only be measured by direct, general, free, confidential, honest and fair indicators. However, the quality of the holding of elections substantively is determined by the political participation of citizens. The political participation of citizens is to participate actively in the process / stages of elections particular in voting rights. This is a form of use of the rights of citizens guaranteed by the constitution.

The high level of political participation of citizens based on their own will⁶ is considered an indicator that citizens have adequate political awareness and education. The higher the political participation of the community, the better for the life of democracy. On the contrary, the low level of participation is considered as a sign that is not good in the life of democracy. In Western democracy for example, the political participation tends to voluntary activities and is based on awareness. While in developing countries, people's political participation, even though it appears to be carried out voluntarily but tends to be done with pressure. In this case, it is very difficult to distinguish between truly voluntary activities and covert activities imposed by both the authorities and other groups. Therefore, it can be distinguished between autonomous participation and mobilized participation by other parties.⁷

In the context of Indonesia's constitutional government, in the early days of the establishment of the state, the expansion of political participation was the first and foremost step taken.⁸ Furthermore, Adnan Buyung quoted Syahrir's opinion states that "all governments must be democratized in order to organize many people to be into a government environment. This is easily done by reviving and building people's house representative started from the village to the top of the government."⁹ It appears to be a link between people's political participation and democracy. It means that democracy must be built with people's participation. The expansion of people participation is intended by the people in order to have access to government. Every people's

¹ The politic activities have been covered in the concept of the politic participation in various forms and intensity. The different type of the participation is based on the intensity. Intensive-less participation such as voting in the general election basically is followed by many peoples, whilst individual participation as the committee of the political party is followed by few people only.

² In line with the opinion of John Rawls, the political participation as a fundamental principle is mentioned to provide opportunity to the people for being actively in the process of decision making. See Andre Ataujan, *Justice and Democracy: an Overview to the Political Philosophy of John Rawls* (Keadilan dan Demokrasi Telaah Filsafat Politik John Rawls), Kanisius, Jakarta, 2001, p. 102.

³ Rusadi Kantaprawira, *the Indonesian Political System* (Sistem Politik Indonesia), Sinar Baru, Bandung, 1988, p. 34.

⁴ Laica Marzuki, "the Awareness to be Constitution in related with Constitutionalism", *Jurnal Konstitusi*, vol.6 No.3, 2009, p. 20.

⁵ Marthen Napang, *The Election of the U.S. President* (Pemilihan Presiden Amerika Serikat), Yusticia Press, Makassar, 2008, p. 36.

⁶ The choice to not to vote in the general election process is caused by the assumption to the incapability of the candidates to be a leader. In terms of it, it is deemed as one of active participation.

⁷ Samuel P. Huntington and Joan M. Nelson, *the Political Participation in Developing Countries* (Partisipasi Politik di negara-negara Berkembang), Penerbit Rieka Cipta, Jakarta, 1990, p. 71.

⁸ Adnan Buyung Nasution, *an Aspiration of the Constitutional Governance in Indonesia: Socio-Legal Study over Constituante 1956-1959* (Aspirasi Pemerintahan Konstitusional di Indonesia: Studi Sosio-Legal atas Konstituante 1956-1959), Grafiti, Jakarta, p. 16.

⁹ Ibid. p. 17.

participation in the political process can be seen through some activities such as voting or influencing the actions of those in authority in taking binding policies.

In the history of electoral regulation, in the first election in 1955, political parties had expanded the function of political education, especially as a facility of raising citizens' political awareness through political participation.¹ As a result, political parties became the government's reference in policy making, even though at that time the 1955 elections were signed by various political streams.² Meanwhile, the holding of elections in the New Order with jargon "for the sake of development" made the Election as a facility to perpetuate power. The holding of the General Election at that time was full of interests and intimidation conducted by the authorities. Elections are held as an attempt to abort constitutional obligations. This also influences the quality of people's political participation especially in voting in general elections. The people's political participation further in the history of the holding of elections can be seen in the table below:

Table 1
The Political Participation on the Implementation of General Elections

The General Election Conducted (year)	The Political Participation (%)
1955	91,1
1971	96,6
1977	96,5
1982	96,5
1987	96,4
1992	95,1
1997	93,6
1999	92,6

Source: General Election Commission (KPU)

Based on the table above, there appears to be high participation from the people since the first general election was held in 1955. In the New Order elections, the people's political participation appeared increase. It was seen in the implementation of the 1971 elections until the 1997 elections. However, it cannot be denied that the increase in people's political participation in the elections in the New Order period was influenced by the political conditions of authoritarian rulers. The general election was designed as an obligation for the people to vote, on the one hand the government was also the organizer of elections, which resulted in the implementation of pressure-filled elections and engineering. This situation did not allow distribution of people's political will based on their beliefs. As a result, the political participation is only false participation.

Post-reform, the design of democratic development began to find a bright spot. Through amendement to the 1945 Indonesian Constitution and the establishment of laws in the political field, such as the Election Law and the Political Party law and finally the Election Law as an implementation of the Constitution which is intended to encourage citizen participation in the democratic process. In the meantime, arrangements relating to the implementation of political education and an increase in people's political participation, are handed over to political parties. This means that political parties have a responsibility to improve the political education of citizens.³ This is as the spirit promoted by the Law No. 2 of 2011 concerning Political Parties. Based on the Law No. 2 of 2011, political parties are organizations formed with the aim of fighting for the ideals of the struggle and defending the political interests of members, society, nation and state, as well as maintaining the integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution.

The role of political party constitutionally has been affirmed in Article 6 A paragraph (2) of the 1945 Constitution of the Republic of Indonesia. The article stipulates that the President is carried by political parties or a combination of political parties participating in the General Election. It indicates that only political parties can propose candidates for President. This means that the nomination of the President is only through one door, namely through the political parties. This signifies the role of political parties that are very central in the administration of the state. Based on the Article 6A paragraph (2) of the 1945 Constitution, it appears that political parties have positions and roles which is very important in the administration of the presidential election. The political parties play a role in selecting presidential candidates in elections. The role of the political party is realized by carrying out a political recruitment mechanism that can produce qualified leaders in the community. It is because one of the tasks in political recruitment is how existing political parties can provide qualified political party cadres to sit in the legislature or executives.

The political parties are required to be able to produce member of parties who will fill quality political

¹ Syamsuddin Haris, *Some Problems of Democracy and Nation in Reforms Era* (Masalah-masalah Demokrasi dan KEBangsaan Era Reformasi), Yayasan Obor Indonesia, Jakarta, p.15.

² Ibid. p.17.

³ The major function of the political parties is to absorb and distribute the aspiration and people's interests. The political education is conducted to the society on right and duty of the people in state daily life. Another function is to do political recruitment democratically in line with existed regulation and laws to posit some public positions in all levels of the government.

positions and understand the aspirations of the people. To create qualified of them, the political parties must carry out their functions properly, especially the function of recruitment and political education. The urgency of the regulation gives political parties the capacity to conduct recruitment or selection of them who will sit in state institutions well, regularly and well-planned. The political parties can produce qualified members of party as an effort to improve education and political participation of the community. Thus, the community sees or has hope for the election because it is provided by qualified members of party who are eligible to be chosen and bridge the people's aspirations which are manifested in the product of legislation and public policy.

Post-reform, some efforts to provide legal guarantees for people's political participation in the administration of the presidential election can be traced through legislation related to the election of the President. Some the regulation of community participation based on the Law governing the election of the President since the direct election was held.

a. *The Law Number 23 of 2003 concerning the Election of the President and Vice President*

In the 2004 presidential election, the arrangement for the implementation of the Presidential election was regulated in the Law No. 23 of 2003 concerning the Election of the President and Vice President. Indeed, the presence of the Law No. 23 of 2003 is to accommodate the new paradigm along with the strengthening of democratic consolidation in Indonesia as a consequence of amendment to the 1945 Constitution which requires the presidential election direct by the people. Post reform, the spirit of organizing general elections (presidential election) is to uphold the joint democracy (people's sovereignty). Therefore, the presidential election arrangement is intended as a manifestation of democracy (state sovereignty) by encouraging as much the political participation as the magnitude in the implementation of general elections. However, the regulation of public political participation in the administration of the presidential election is based on the Law Number 23 of 2003. It does not provide room for strengthening people's political participation. This is because it is not explicitly regulated but the community participation space is only limited to monitoring elections at the voting stage. This is as stipulated in Article 58 paragraph (6) which regulates: "vote counting is carried out in a way that allows witnesses of Candidate Pairs, Election Supervisors, Election Observers, and community members who are present to clearly witness the vote counting process". It appears that public participation is only possible through election observers, or for people who "happen" to be located at the time when the vote count is conducted.

The regulation of public participation in the Law No. 23 of 2003 lacks space for an increase in people's political participation in the election stage. The regulation of public participation is only limited to involvement in election monitors in the process of counting the votes. Meanwhile arrangements allowing people's political participation at each stage of the election are not regulated. The low regulation of guarantees of community political participation in the holding of the 2004 presidential elections enabled the public to be actively involved in "information dissemination and dissemination" as an effort to increase public awareness and understanding in the process of holding the Presidential election. This illustrates that the spirit of the Law No. 23 of 2004 does not synergize with the reform spirit that requires active participation of the community in the process of changing leadership.

The right to vote is governed in Article 7 and Article 8 of the Law. No. 23 of 2003. Article 7 stipulates that "citizens who on the voting day are 17 years old or have already married have the right to vote. Furthermore, Article 8 emphasizes that "to be able to exercise the right to vote, citizens must be registered as voters". The provisions of Article 8 of the Law No. 23 of 2003 which requires voters to be registered. It has legal consequences to use citizens' voting rights who have the right to vote must go through administrative procedures in the form of registration. In the provisions of this Law, the authority for voter registration is not carried out by the Voter Registration Committee formed by the KPU as in the previous election, but carried out by the Central Statistics Agency (BPS). The voter registration carried out by BPS is based on Memorandum of Understanding (MoU) between the Minister of Internal Affairs, the General Election Commission, and BPS Number 119.404 of 2002, Number 17/15-A / X / 2002 and Number 003 / KS of 2002 dated October 2, 2002. The activity was named Voter Registration and Data Collection of Sustainable Population (P4B).

In its development, the stages of voter registration in the holding of the 2004 Presidential Election resulted in problems. One problem is the regulation related to the use of the right to vote by citizens who already have the right to vote but are hit by a procedure that requires "must be registered". This is considered to potentially affect the quality of elections. It is also the reason for the current Presidential Candidate Pair to sue the Constitutional Court.¹ Encountered Problems during the voter registration stage as mentioned above include a). many people are not registered; b). The reality in the field shows a variety of errors, such as mistakes in writing names, addresses, sexes, dates of birth and marital status; c). registered more than once; d). changes that are not recorded (died, moved); and e). there are voters who have been registered but their names are not listed in the DPS,

¹ The pairs of the president and vice president candidates Megawati-Prabowo and Yusuf Kalla-Wiranto to file to the Constitutional Court because they deemed that they have been dis-advantaged.

fictitious voters, many underage residents are registered as voters, and so on.¹

b. The Law No. 42 of 2008 concerning the Election of the President and Vice-President.

The development of the regulation of the public political participation in the implementation of the Presidential elections has been regulated in the 2009 Presidential Election using the Law No. 42 of 2008 concerning the Election of the President and Vice President, which replaces the Law No. 23 of 2003 as a correction of various problems that occurred in the 2004 Presidential election process. One of the issues highlighted in the 2004 presidential election arrangement was the provisions in the Law No. 23 of 2003 is deemed not to give space to the political participation of the people. The regulation of the public political participation in the process of organizing the election of the President and Vice President in the 2009 Presidential Election is regulated in Articles 186 to 189 of the Law no. 42 of 2008. The provisions of the articles stipulate that community participation is carried out in the form of socialization, political education for voters, surveys or polls and quick counts. Likewise, in the 2014 Presidential Election, using the same laws in the previous Presidential General Election, people's political participation in the election process was carried out in the form of socialization, and political education for voters, surveys and polls.

The people's political participation factually as mentioned above is mostly carried out in the form of surveys and quick calculations, while the socialization of the presidential election and political education for voters is an obligation for the KPU and its staff.² But in its implementation, the socialization and political education carried out by the KPU seemed to only abort its formal obligations. This is because the KPU does not have standard concepts and methods. The existence of survey institutions is guaranteed in the implementation of the 2004 and 2009 presidential elections. It turns out to be contradictory, especially if the survey institution is interpreted as an effort to increase public understanding and political participation. The existence of a survey institution is considered to carry the mission of certain parties to influence voters. This is because it is not supported by some laws governing the work mechanism and code of ethics of survey institutions to avoid to be controversy.

The lack of regulation regarding the work mechanism and ethical code of survey institutions in the implementation of the presidential election especially in the 2004 and 2009 Presidential elections causes the performance of survey institutions not to provide good political education because they tended to lead opinions to certain candidates. According to Abdul Wahid, the level of popularity of survey institutions was accompanied by controversy. For example, the survey institution is considered not neutral from the political interest of the successful team to win the election. In addition, the performance of the survey institutions is considered to be only the opinion makers who want to influence voters on one of the political parties and prospective leaders.³ In the United States, the controversy over survey institutions in election contestations often occurs. The survey institutions are considered more interested in industrialization and business or the formation of public opinion by attracting the attention of the mass media rather than expressing real public opinion.⁴

The regulation regarding voting rights and the determination of the voter list in the implementation of the 2009 presidential election is regulated in Article 27 paragraph (2) and article 28 of the Law No. 42 of 2008, which was subsequently filed for a judicial review to the Constitutional Court.⁵ Article 27 paragraph (2) regulates that "Indonesian citizens as referred to in paragraph (1) are registered by the election organizers in the voter list" and Article 28 states, "to be able to exercise their right to vote, Indonesian citizens as referred to in Article 27 must registered as a voter ". Likewise, Article 111 paragraph (1) states, "voters who are entitled to vote in a polling station (TPS) include: (a). voters registered in the DPT at the polling station concerned, and (b). voters registered in additional DPT (DPTb). The provisions of the article referred to as mentioned above can be considered as violating the right of every citizen to vote. According to this article, only citizens registered in the DPT can exercise their right to vote, while citizens who are not registered in the DPT even though they have the right to vote will lose their voting rights. This condition has the potential to violate the citizens' right to vote guaranteed by the 1945 Constitution of the Republic of Indonesia. Through the decision of the Constitutional Court No. 102 / PUU-VII / 2009, the issue can be solved by the Constitutional Court even though it is approaching several days of the election. The Constitutional Court has extended the intent of the two articles by stating that citizens who have the right to vote can use their right to vote even if they are not yet registered or not in the DPT, as long as they can show their KTP and Family and Passport Cards for Indonesian citizens abroad.

According to the Constitutional Court, in order to avoid loss of constitutional rights of citizens, and not to violate the provisions of the applicable legislation, the Constitutional Court needs to order the KPU to further regulate the technical implementation of the right to choose unregistered Indonesian citizens in the DPT with

¹ See Ppid.lan.go.id/wp-content/uploads/2014/10/Abstrak-Kajian-Pilpres.

² See article 8 paragraph (4) (c) the Law No. 42 of 2008.

³ Abdul Wahid, "Quick Count: The Right to Get Information or Public Lie (Qucik Count: Hak Atas Informasi atau Pembohongan Publik)", *Jurnal Konstitusi*, Vol.6 Nomor 3 September 2009, p.11.

⁴ Ibid. p. 12.

⁵ Filing to the Constitution Court done by the pairs president and vice president Megawati-Prabowo and Yusuf Kalla-Wiranto.

guidelines as follows:¹

- a) Indonesian citizens who have not been registered with the DPT may exercise their right to vote by showing a valid National Identity Card (KTP) or a passport that is still valid for Indonesian citizens abroad;
- b) Indonesian citizens who use a KTP must be equipped with a Family Card (KK) or similar name;
- c) The use of the right to vote for Indonesian citizens who use the valid KTP can only be used at the polling station (TPS) located in the RT / RW or its true name according to the address listed on the KTP, especially for those who use passports in the Overseas Election Committee (PPLN). They must obtain approval and appoint the voting place from the local PPLN;
- d) For Indonesian citizens as mentioned in letter c above, before using their right to vote, it first register with the local KPPS; and
- e) For Indonesian citizens who will use the right to vote with a KTP or Passport conducted at 1 (one) hour before the completion of the vote at the local polling station or polling station.

Based on the Constitutional Court decision as stated above, it has reinforced the constitutional rights to vote and rights to be candidate as rights guaranteed by the Constitution², Laws or International Conventions.³ so that restrictions, deviations, and abolition of rights constituted violations of citizens' human rights. In the presidential election 2009, the Law No. 42 of 2008 has the authority to register and update voter data under the authority of the KPU. This is a consequence of the existence of the Law Number 22 of 2007 concerning General Election Organizers. The law gives authority to the KPU to update voter data and determine it as a Permanent Voters List (DPT).⁴

As a consequence of these provisions, there are problems arise in the process of updating voter data, namely: *first*, the KPU has limited access or adequate capacity to carry out data collection and updating which is the work area of the Ministry of Internal Affairs. As a result, the drafting of the DPT by the KPU caused many problems. The chaos of the DPT is the trigger for the objections of the presidential and vice-presidential candidate at that time. Pursuant to the presidential and vice-presidential candidate pairs considers that it can harm candidates, the public and citizens who have the right to vote. *second*, the unclear arrangement regarding the obligations of the KPU related to the delivery of information on the implementation of the Election contained in the provisions of Article 8 paragraph (4) letter c, where the KPU's obligation to convey information to the public is not followed by an obligation to guarantee that the information submitted is truly received and understood by the community. As a result, many voters do not know for certain matters relating to the presidential election, such as the stages and schedule of elections, the correct way of giving a sign on the ballot, vision and mission of the DPT, may or may not use KTP or Passports in voting, etc.⁵

The implementation of the 2014 presidential election normatively did not change because it continued to use the same law in the previous election. The only difference is the KPU Regulation Number 19 of 2014 concerning Voting and Vote Counting in Polling Places in the General Elections of the President and Vice President. These provisions have been regulated in more detail in determining Indonesian citizens who exercise their right to vote. Based on KPU Decree (PKPU) No. 19 of 2014, those who have the right to vote at TPS are: (a). voters registered in the DPT at the relevant polling station (Model A.3 PPWP), (b). Voters are registered in the Additional Permanent Voters List (Model A.4 PPWP), (c). Voters who are not registered in the DPT and DPTb which include special voters registered in the Special Voters List (Model A PPWP) and additional special voters registered in DPKTb (Model AK PPWP).

PKPU No.19 of 2014 represents KPU's efforts to fix the problem of voter data by making DPK and DPKTb instruments to back up citizens who are not registered in the DPT. However, its existence also reaps the problem because in the Law No. 42 of 2008 does not recognize DPKTb. So that the DPKTb formula is considered to injure democratic values. According to Abdul Wahid, the problems occurred in 2014 were inseparable from 2 (two) main issues, namely, first: the voter administration, where the administration of election administration was closely related to the administrative population. Second, the right to vote is transformed into the form of DPT, as a result many voters lose their right to vote.⁶

¹ See the Decision of the Constitutional Court No.102/PUU-VII/2009, particular Chapter 3 and 23.

² See the Law No. 39 of 1999 concerning Human Rights and the Law nomor 12 of 2005 concerning International Covenant on Civil and Political Rights.

³ See International Covenant On Civil and Political Rights (ICCPR) 1996 in Article 25 states that, "every citizen must have the same rights and opportunities without any distinction as stated in Article 2 of the ICCPR and without unnatural restrictions both for participating in carrying out all public affairs both directly through selected representatives freely with the same and universal rights to be voted and held through written and confidential expenditures that guarantee the voters to express their will with freedom, and to obtain public services in their own country in general over the similar dassar ". This provision emphasizes that suffrage is a human right.

⁴ See Article 8 paragraph (2) the Law No. 22 of 2007.

⁵ Sudi Prayitno, "Reflection of Juridical the Presidential Election (Refleksi Yuridis Pilpres)", *Jurnal Konstitusi*, Vol. 6 No.3, September 2009, p. 62.

⁶ Abdul Wahid, *op.cit*, p. 10-12.

The decline in voter participation in the 2014 presidential election or increasing the number of abstentions in the 2014 presidential election is caused by not only some laws, but also some other factors, namely; *first*, the presence of volatile voting behavior is the election trend in Indonesia since the post-New Order elections from 1999 to 2014. This voting behavior arises because there is a very acute factor in distrust behavior of the political elite since the 1999 elections which were unable to develop the mandate of public aspirations, especially corruption. *Second*, the influence of swingging voters is getting stronger. The swing voters can be interpreted as voter behavior that is not bound by a political party in a long period of time, which is formed due to mistrust of political parties. This type of voter will only make political choices towards the voting booth.¹ *Third*, the failure of the presidential candidate to ground the work program and / or vision and mission carried out during the campaign. As a result, voter distrust arose due to the government's inconsistency in realizing the vision, mission and work program. *Fourth*, the breakdown of information channels to the public as a result of the absence of implementing regulations in supporting the realization of the presidential election law, such as election socialization.

The lack of regulation encourages active political participation by the community based on its own initiatives, especially related to information dissemination, vision and mission track record of presidential candidates, is one obstacle in efforts to encourage and influence people's perceptions and political choices. It affects people's political participation in voting. Furthermore, the political participation in voting can be seen in the table below:

Table 2
The Political Participation in the Implementation of Presidential Elections

The Presidential Election Organizer (year)	The Political Participation (around) %
2004	78,2 % (around 1)
	76,6 % (around 2)
2009	71,7
2014	70,9

Source: General Election Commission (KPU)

Based on the table as mentioned above, it appears that there has been a decrease in voter participation especially in giving voting rights since the direct presidential election was held. On the one hand, there is an increase in the number of the abstentions (Golput). The high number of abstentions in the presidential election (2004-2014) can be grouped into five categories: *First*, administrative reasons, in which a voter does not vote due to administrative procedures such as not knowing his name is registered in the DPT, have not received a voter card. *Second*, the technical reasons for someone deciding not to vote because they have to work, go out of town, or are lazy to go to the polling station. *Third*, political reasons, where voters decide not to use their rights because consciously not to choose, for reasons of election that are useless, will not bring change or no preferred candidate. *Fourth*, the lack of information and public political education related to the election of the President, such as information related to the candidate's track record, socialization of elections and how to vote (vote or vote). *Fifth*, the procedure for election administration is hampered by complicated electoral arrangements.²

Normatively, the low level of people's political participation, especially in the granting of voting rights in the 2004 and 2009 Presidential elections was caused by the stagnant channels of people's political participation, both in the 2004 Presidential Election stipulated in the Law No. 23 of 2003 concerning the Presidential Election, and the 2009 Presidential Election stipulated in the Law Number 42 of 2008 concerning the Presidential Election or the General Election Commission Regulation as the implementing regulation of the Law. The hindrance of the channel for political participation in society is due to two things: *firstly*, regulation of the voter list which is considered detrimental to the voters, and *secondly*, the regulation of information dissemination and dissemination by the KPU does not guarantee that the socialization and dissemination of information reaches the public.

Even though the 2004 and 2009 presidential elections ran smoothly, at several stages of the election there were problems that disrupted the quality of the election and potentially distorted people's political education. In essence, the problem is in the form of: *firstly*, the arrangement of the Permanent Voters List (hereinafter written as DPT) itself is not in accordance with the substance of democracy that is to be upheld. For example, the provisions of citizens who can choose or use voting rights are registered in the DPT, but the fact is that many voters are not registered in the DPT. *Secondly*, problems at the level of the practice of implementing the stages of elections that are not carried out according to regulated procedures, for example vote counting and recapitulation of results not attended by witnesses. Based on data, it appears that the issue of low political participation in

¹ Agus Riwanto, *Law of Political Parties and Election Law in Indonesia, Influence on the Implementation of Quality Elections and Effective Presidential Government Systems* (Hukum Partai Politik dan Hukum Pemilu di Indonesia, Pengaruh Terhadap Penyelenggaraan Pemilu Berkualitas dan Sistem Pemerintahan Presidensial Efektif), Thafa Media, Yogyakarta, 2016, p. 246.

² Compare with Fathoni "Distortion of People's Interest in Representative Democracy: Critical Legitimacy of Legislative Members" in Agus Riwanto, op.cit. p. 213.

voting in the Presidential election year 2004, 2009 and 2014 were strongly influenced by the provisions governing it. One of the most crucial issues that occur in the electoral process since direct elections are held is related to the regulation and determination of voting rights. In the juridical facts, one of the fundamental problems caused the stagnation of citizen participation in voting in the presidential election directly post the Amendment of the 1945 Constitution of the Republic of Indonesia. It is the regulation of voting rights and accuracy of voter data.

Considering the legal provisions governing the "voting rights" in the 2004 and 2009 Presidential elections mentioned above, it appears that there is a substantial similarity between the Law No. 23 of 2003 and the Law No. 42 of 2008. There is a requirement for citizens to be registered as DPT to be able to exercise their voting rights. Thus, un-registered citizens in the DPT are considered to be unable to exercise their right to vote. Determination of voters is part of a series of electoral systems that have important positions in elections to ensure equality and justice for citizens. Therefore, in an effort to guarantee the use of political rights of citizens, the regulation related to the rights to vote must be a top priority to guarantee the citizens' constitutional rights.

Normatively, decreasing voter participation in the 2004, 2009 and 2014 Presidential Elections was caused - *first*, complicated rights of vote regulation tends to limit the use of voting rights. *second*, the existing regulations do not provide active participation for citizens, especially those who have the right to vote, to get to know the presidential candidates who are carried out by political parties participating in the election. The introduction of candidates to voters is very important as a literacy for voters to know the track record of candidates for the President. This is to determine the quality of the candidate and the background of the candidate including his family background. *Third*, the ineffectiveness of the vision and mission program of the presidential candidate pair is a binding thing to implement. As a result, public disappointment arose because the government as a result of the election was unable to fulfill its promise. As a result, the government does not make the vision and work program a top priority in the development process carried out. Instead, the government is inconsistent with the vision and mission program as promised to the public. This is a form of political education that is not good at building democracy.

The main principle of people sovereignty is the appreciation and assessment of the right of the people to choose and determine the direction of state life that can guarantee the realization of the ideals of the nation and state. Therefore, it is necessary to regulate the president's election. In addition, it is needed to guarantee the distribution of people's rights and to guarantee the protection of citizens to participate actively in the electoral process in order to realize a presidential election with integrity and civilization.

C. The Law No. 7 of 2017 concerning Elections.

Low voter participation as in the 2004, 2009 and 2014 presidential elections illustrates the lack of people's political participation in the process of changing leadership. In an effort to realize people's political participation, the government is required to make corrections and improve regulations on the presidential election. The Law No.7 of 2017 concerning Elections is hoped that it can guarantee an increase in the quality of democracy by channeling people's voices directly, publicly, freely, honestly and fairly. However, if examined, it appears that the regulation on public political participation based on the Law No. 7 of 2017 substantially did not experience fundamental changes to the provisions of the Law No. 42 of 2014. This is as regulated that public participation is carried out through election socialization, voter political education, polls or polls on elections, and quick calculation of election results.¹ The dissemination of campaign material is the obligation of the election organizers, namely the KPU. This is as stipulated in Article 274 paragraph (2) that "in the context of political education, the KPU must facilitate the dissemination of the presidential and vice-presidential election campaign material which includes the vision, mission and program of the candidate pairs through the KPU website and public broadcasting institutions.

The importance of disseminating the campaign in the context of the vision and mission of the candidates for the President and Vice President can be adequately known by all levels of society. As consequences, voters can participate both directly and indirectly in recognizing and introducing presidential candidates. The voters can choose based on voters' tastes in accordance with the vision and mission programs offered by or candidates' track records. Based on the principle of people sovereignty, the presidential election arrangements at each stage including the stages of the campaign, can provide space for active participation to get to know more closely the candidate pairs carried out by political parties. This will encourage the realization of substantive democracy. The presidential election system can improve people's political intelligence which is expected to give birth to state leaders in accordance with the desired character of Pancasila and the 1945 Constitution of the Republic of Indonesia. In the US Presidential election, voter participation has always been an important issue.

In the presidential election of the United States, the election always become an important issue. The American's people are known as party loyal voters, but the abstentions (Golput) are also very high.² According

¹ See Article 448 the Law No.7 of 2017 concerning the General Election.

² Nelson W. Polsby, et.al., *Presidential Election: Strategies and Structures of American Politics*, Rowman & Littlefield Publisher Inc, Plymouth, 2012, p. 3

to Nelson W. Polsby, the reason for the high the abstentions (Golput) is the complexity in the electoral process, especially the rules in each state that everyone must re-register to become a voter in every election held, besides the implementation of elections on weekdays is the reason for US citizens refused to vote.¹ The elaborate electoral process is realized to have contributed to the high level of the people who did not participate in the Presidential elections in the United States. In an effort to anticipate it, several states have made policies to increase voter participation in elections, including voter registration policies on election day, then voter registration for voters who have high mobility, and vote before elections.² In the presidential election of the United States, the level of education, and political group identity are influence factors of citizens to participate in elections. United States citizens who are involved in a civil organization or a particular interest group have higher participation in elections than those who are not involved.³

b. Realizing Responsible Governance

General election is universally interpreted as an institution as well as a political practice that enables the formation of a legitimate government. Therefore, elections are not only related to the facility for the people to articulate their aspirations and interests, but also become a test tool for the validity of government power. In connection with it, the elections have a function to not be separated from each other. *Firstly*, as a political legitimacy facility. This function of legitimacy is mainly related to the government's needs for recognition and validity of its actions. Through elections, the validity of government actions can be enforced and the programs and policies can be produced. According to Ginsberg, the function of political legitimacy is the logical consequence of elections to change a mass political involvement from being sporadic and can be dangerous as a major source for national political authority and power.⁴ *Secondly*, the function of political representation. This function becomes the people's need, both in order to evaluate and control the behavior of the government, and the programs it produces. The elections in this connection are democratic mechanisms for the people to determine trustworthy representatives who will sit in the government or the legislature. *Thirdly*, the elections as a mechanism for the replacement or circulation of the ruling elite. Election linkages as a mechanism of change or elite circulation assume that elites are from and are tasked with representing the wider community. Finally, as a political education for the people facility. The elections are a form of direct, open and mass political education, which is expected to be able to educate political understanding and increase public awareness about democracy.

One of the functions of elections as a political education facility is to increase political understanding and awareness of citizens in contributing to building a democracy based on the constitution. For the Indonesian people, democracy based on the constitution is democracy to embody the 1945 Indonesian Constitution. The importance of electoral arrangements to support the realization of democratic values based on the 1945 Indonesian Constitution cannot be separated from the Indonesian nation's historical experience in under the rule of the New Order regime. Under the New Order regime, the implementation of democracy was pseudo. The government tends to impose the will on the people by arguing "for the sake of development stability". As a result, the people can only "surrender" and what is determined by the government, even though this is contrary to the basic principles contained in the values of Pancasila and the 1945 Indonesian Constitution.

Thus, the presidential election is essentially an embodiment of people's political rights and at the same time is the delegation of these rights by the people to the government (election results) to run good governance, and also at the same time supervision by the people. Therefore, the arrangement of the presidential election is very influential on the election results to produce leaders with integrity who are able to provide welfare for the people of Indonesia as mandated by the Preamble of the 1945 Indonesian Constitution, which is listed in the Fourth paragraph:

"... to form a government of the state of Indonesia which shall protect all the people of Indonesia and all the land and its territorial integrity that has been struggled for, and to improve public welfare, to educate the life of the people and to participate toward the establishment of a world order based on freedom, perpetual peace and social justice, therefore the independence of Indonesia shall be formulated into a Constitution of the Republic of Indonesia which shall be built into a sovereign state based on a belief in the One and Only God, just and civilized humanity, the unity of Indonesia, and democratic life led by wisdom of thoughts in deliberation amongst representatives of the people, and achieving social justice for all the people of Indonesia."

The achievement of state goals will be determined by the leaders of the state resulting from the General Election. Hence, the state is only a forum and the one who moves the container is the leader - human beings who are in fact, their attitude and soul are united with the spirit of the founding fathers as stated in the Preamble of the

¹ Ibid, pp. 3-8.

² See Asiyah Putri Budiatri, "The General Election of the Presidential of the U.S. (Pemilu Presiden Amerika Serikat), *Jurnal Penelitian Politik*, Vol. 10 No. 2, December 2013, p. 170.

³ Ibid.

⁴ See Syamsuddin Haris, et.al., *The General Election In Indonesia: Study on Structure and Function* (Pemilihan Umum di Indonesia: Telaah atas Struktur dan Fungsi), PPW-LIPI, Jakarta, 1997, p. 7.

1945 Indonesian Constitution. Therefore, the presidential election arrangement must be designed not only as an embodiment of people's sovereignty alone, but also as a people's political education facility which will guide people to give birth to leaders of integrity, or be a filter for selecting and avoiding people who are not capable and qualified. The people's political education facility is intended how the mechanism of the presidential election to be able to encourage and enhance citizen literacy, especially how to understand the process of changing national leadership that puts forward universal principles of democracy and the noble values adopted by the Indonesian people to realize responsible governance as mandated constitution.

In today's modern country, the Constitution is the foundation in the life of the state to guarantee the basic rights of the people. In the Indonesian context, the Constitution can be found in the 1945 Indonesian Constitution. Article 1 paragraph (2) of the 1945 Indonesian Constitution affirms that sovereignty is in the hands of the people and carried out related to the Constitution. This provision is a legal basis for the need to create a government initiated by the people and for the people. This is commonly referred to as responsible government. In the sense that every holder of power (government) in the Indonesian constitutional system, it must be able to account for the implementation of his power to the people within the limits of the constitution.¹

The meaning of the government of the people, by the people, and for the people. Hendra Nurcahyo² states that "If we reflect on the word "from the people" then this will point to the existence of a free election or freedom of choice that is shared equally (equality) by all people as a participation in political life (zoon politicon). So that other political processes outside of free elections should not be applied unless they rely on the process and results of the free election itself. The idea of the people or "by the people" is often considered impossible and confusing. How can the people rule and be governed at the same time? The government "by the people" meant here is by the best representatives of the people who are freely elected in the same political rights that process juridically. So, what is possible is freedom and equality to choose the best ruler or the best government candidate. The idea for the people or "for all people" is an idea to declare the ultimate goal of democracy which is organized through the process "of the people and by the people". "For the people" is the goal or scale of success which can be a measure for the elected representative who becomes the ruler in carrying out the mandate of the people's departure. If this "for the people" does not materialize, the people have the right to replace it with a better choice and have more moral and skill sufficient to realize the people's will. The will of the people being manifested in the form of a government program "for the people" is a measure to see the success point of a government regime that is taking place.

Based on Nurcahyo overview as stated above, in an effort to guard the government to guarantee the realization of the basic rights of the people of a country - especially in a democratic country - the realization of a system of elections is organized regularly, openly, democratically, honestly and fairly. This is then introduced in the 2009 General Election. Based on the consideration of the Law No. 42 of 2008 concerning the Presidential Election, it stated that "direct elections by the people are aa implementing people's sovereignty facility in order to produce democratic state governments based on Pancasila and the 1945 Indonesian Constitution; and that "the general election of the President and Vice President is held democratically and civilized through the broadest participation of the people based on the principle of direct, general, free, honest and fair secrets to elect the president and vice president."

The consideration of the Law No. 42 of 2008 as mentioned above is an anti-thesis of the implementation of President's election in the New Order government. In the Law No. 42 of 2008, it is carrying out the spirit of reform which requires the change of national leadership to be realized through the application of democratic principles. This is a correction of the electoral system organized by the New Order which is full of intervention and pressure which deviates from the universal principles of democracy and the values of Pancasila and the 1945 Indonesian Constitution. Basically, the presidential election regulation cannot be separated from Pancasila and the 1945 Indonesian Constitution. According to Sri Soemantri, the basis for the basic Election is the Pancasila democracy which is implicitly and explicitly found in the preamble of the fourth paragraph of the 1945 Constitution.³ The Fourth Precept of Pancasila states, "Democracy is led by wisdom of wisdom in representative deliberations".

Indonesia has believed and agreed that Pancasila is the ideal of national law. Arief Sidharta clarifies the meaning of legal ideal as "Ideas, intentions, inventions and thoughts regarding the law or perceptions of the meaning of law, which in essence stands on three elements, justice, usability (doelmatigheid) and legal concern. The legal ideal is formed in the mind and human heart as a socially fit product projected on the process of

¹The term liability comes from the word responsibility. WJS. Purwadarminta defines the word responsibility as an obligation to bear everything. In English, accountability is called accountability that comes from the word account. Dawn Oliver and Gavin Drewry, interpret Accountability as a state of accountability, and accountable is interpreted as responsible. In the terms of Andree's Fockema Law Dictionary, Algra states that responsibility is a translation of verantwoording, which means making calculations and accountability is not only accounted for that all estimated income has been entered and any expenditure is used, but must maintain the policies carried out and material truths of all expulsion carried out.

² Hendra Nurcahyo, *Democratic Philosophy* (Filsafat Demokrasi), Bumi Aksara, Jakarta, 2006, pp. 90-91.

³ See Sri Soemantari M. "the System of the General Election in Indonesian Constitution (Sistem Pemilu Dalam Ketatanegaraan Indonesia)", *Majalah Persahi*, No. Ketiga, Januari 1990.

pengkaidahan behavior of citizens who embody the three elements earlier.”¹

Arief Sidharta explains furthermore the functional aspects of the concept of legal ideals. He states that “the law will affect and function as a general principle guiding principle, criticism norms (evaluation rules) and be motivating factors in law enforcement (formation, discovery, application of law) and legal behavior. Formulated and understood the ideals of the law will facilitate the elaboration into various instruments of authority and rules of conduct and facilitate the maintenance of consistency in the administration of law”.²

Thus, the effort to formulate legal principles towards the regulation of the President's election as an instrument of political education must begin from the philosophical foundation of the Indonesian nation itself, namely Pancasila. At the BPUPKI session on June 1, 1945, Soekarno conveyed about the basic state. In this case, Soekarno proposed the principle of representative deliberation. Regarding the importance of this principle, Soekarno said. "Indonesia was not one country for one person, not one country for one group even though it is a rich group. But we founded the state "all for all", one for all, all for one".³

This principle emphasizes procedural if someone wants to fight for their aspirations to become a general rule. This was confirmed by Soekarno and stated that “If we seek democracy, it should not be Western democracy, but life-giving consultations, if politieke-econosche democratie are capable of bringing social welfare. The Indonesian people have long talked about this. What does the Fair Queen mean? What is meant by the understanding of Ratu Adil, is the rechtvaardigheid sociale, the people want to prosper. The people who had felt that they were not eating enough lacked thought, created a new world in which there was justice, under the leadership of Ratu Adil. Therefore, if we truly understand, remember, love the people of Indonesia, let us accept this principle of the sociale rechtvaardigheid thing, which is not only the equality of politic, brothers and sisters, but also on the economic field we must make equality, meaning welfare together as well as possible.”⁴

In concept, the presidential election is carried out by upholding the spirit of democracy to produce leaders who are better, better qualified, and gain legitimacy from the people. Through the elections, citizens who have the right to vote together give their sovereignty to choose who is most appropriate to exercise the power of government, as an effort to realize the ideals of the nation. Normatively, if you pay attention to the provisions of legislation, it appears that the implementation of Presidential Elections in Indonesia has four (4) main objectives, namely; *firstly*, to conduct national leadership selection on a regular basis; *Secondly*, to form a democratic government; *Thirdly*, obtain (legitimacy) support from the people; and fourth, realize national goals as mandated in the 1945 Indonesian Constitution. The Government legitimacy means important in the administration of government because the legitimacy will support the realization of a stable government. Likewise, by having legitimacy, the government can organize a government to take care of its citizens in order to submit and comply with non-violent rules and policies.

Today, the legitimacy of the government (power) is often translated in the form of the highest number of votes, as a result the election procession that has been held since 1999 has not been positively correlated with the formation of good and responsible government. On the contrary, what emerges later is precisely seen from transactional political practices on the basis of narrow and short-term interests which continue to dominate interaction, cooperation, and competition among electoral political elites.⁵ This can be seen in a number of cases of corruption and abuse of power. This fact is also reinforced by Transparency International Indonesia regarding the Global Corruption Barometer released in 2007.⁶ From the report it is known that political parties and parliaments are the most corrupt institutions in Indonesia.

3. Conclusion

The principle of people sovereignty in the state's administration in its implementation is reaffirmed in Article 1 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. There are 2 (two) basic essentials of regulation of the election of the President as an instrument of political education, - namely facilities to Increase Political Participation and Realizing Responsible Governance. The nature of the presidential election arrangement is as a facility of increasing citizens' literacy and political awareness. Therefore, they can actively raise awareness and participation of the people's politics and create a responsible government as a constitutional

¹ B. Arief Sidharta, *Reflection on the Structure of Legal Studies, A Research on the Foundation of Philosophy and the Nature of Legal Sciences as the Foundation for the Development of National Legal Sciences* (Refleksi Tentang Struktur Ilmu Hukum, Sebuah Penelitian tentang Fondasi Kefilsafatan dan Sifat Keilmuan Hukum Sebagai Landasan Pengembangan Ilmu Hukum Nasional), Mandar Maju, Bandung, 2000, p. 181.

² Ibid.

³ See Muhammad Yamin, *Preparation Manuscript of the 1945 Indonesia Constitution*, (Naskah Persiapan Undang-undang Dasar 1945), ed. 1. 1959, p. 74.

⁴ Ibid. p.76.

⁵ Devi Darmawan, “Pra-condition for Appointment of Governance Legitimacy (Prakondisi Untuk Mengukuhkan Legitimasi Pemerintahan)”, *Jurnal Penelitian Politik*, Vol 10, No. 2, Desember 2013, p. 50.

⁶ Wijayanto, *To Score the Corruption Level* (Mengukur Tingkat Korupsi) in Wijayanto dan Ridwan Zachri (Ed), *Corruption to Corrupt Indonesia* (Korupsi Mengorupsi Indonesia: Sebab, Akibat dan Prospek Pemberantasan), Gramedia Pustaka Utama, Jakarta, 2009, p. 85.

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