

The Political Law of Simultaneous General Elections as Effort to Strengthen the Presidential System

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Abstract. *This study aims to analyze the legal politics of simultaneous general elections as an effort to strengthen the presidential system both under national and Islamic law, which aims to discuss how the legal politics of general elections in Indonesia is the embodiment of popular sovereignty. The method used in this paper was a normative juridical method, namely by analyzing the norms related to the holding of simultaneous general elections, so that the data used in this paper is secondary data, problem analysis using qualitative analysis. The results of the discussion show that the legal politics of simultaneous general elections is intended to emphasize a strong and effective presidential government system, and basically, Islam cannot be separated from politics as a form of practicing shura, Amar Ma'ruf Nahi Munkar, as well as fighting for justice and preaching good deeds. The MPR as the institution authorized to stipulate and amend the Constitution can make stipulations on guidelines for the implementation of development that must be carried out by the President, which will later serve as suggestions for evaluating the performance of the President for five years.*

Keywords: Election; Government; Presidential; Simultaneously.

1. Introduction

Law in the perspective of legal politics, does not see law as something that is autonomous and independent¹, but it is understood as a functional one, namely law as a political tool in the context of realizing certain ideals or goals. Satjipto Rahardjo said that legal politics is basically an activity to choose a certain social goal, and the law will also be faced with the necessity to

¹Solihah, Ratnia, (2018), " Peluang dan Tantangan Pemilu Serentak 2019 dalam Perspektif Politik", *Jurnal Ilmiah Ilmu Pemerintahan*, Volume 3, No. 1. See to Triono, (2017), "Menakar Efektivitas Pemilu Serentak 2019", *Jurnal Wacana Politik*, Volume 2, No. 2, October.

make a choice regarding the goals and methods to be used to achieve that goal, all of which are included in the field of legal politics studies.²In principle, legal politics contains basic questions, namely:³

- 1) What are the objectives to be achieved with the existing legal system,
- 2) What and which are the best ways to achieve these goals,
- 3) When is the time that the law needs to be changed, and through the ways in which it is changed,
- 4) Can be formulated an established pattern that can decide in the process of selecting goals, and ways to achieve them.

Mahfud MD defines legal politics in simple terms that legal politics is an official direction or line that is used as the basis for making and implementing laws in order to achieve the goals of the nation and state.⁴Imam Syaukani and A Thohari formulated that national legal politics is the basic policy of implementing the state (Republic of Indonesia) in the field of law that will/is currently and has been in effect which originates from the values prevailing in society to achieve the goals of the state (Republic of Indonesia).⁵To understand the politics of national law, if the law is defined as a means to an end, then the politics of national law must be based on the following basic framework:⁶

- 1) National legal politics must always lead to the ideals of the nation, namely a just and prosperous society based on Pancasila,
- 2) National legal politics must be aimed at achieving the state's goals, namely:
 - a. Protect the entire nation and the homeland of Indonesia,
 - b. promote the general welfare,
 - c. Enrich the life of a nation,
 - d. Implement world order based on freedom, lasting peace and social justice,
- 3) National legal politics must be guided by the values of Pancasila as the basis of the state, namely:
 - a. Based on religious morals,
 - b. Respect and protect human rights without discrimination,
 - c. Uniting all elements of the nation with all their primordial ties,
 - d. Putting power under the power of the people,
 - e. Building social justice.
- 4) National legal politics should be guided by the necessity to:
 - a. Protect all elements of the nation for the sake of integration or the integrity of the nation which includes ideology and territory,

²Satjipto Raharjo, *Ilmu Hukum*, (Bandung: Alumni, 1981), 334.

³*Ibid.*

⁴Mahfudz MD, *Membangun Politik Hukum Menegakkan Konstitusi*, (Jakarta: Pustaka LP3S Indonesia, 2006), 15.

⁵Imam Syaukani and A Thohari, *Dasar-dasar Politik Hukum*, (Jakarta: Raja Grafindo, 2004), 58.

⁶Moh. Mahfudz MD, *Op.cit.*, 31.

- b. Realizing social justice in the economy and society,
 - c. Realizing democracy (sovereignty of the people) and nomocracy (sovereignty of law),
 - d. Creating religious tolerance based on civility and humanity.
- 5) To achieve goals and achieve goals with the legal basis and guidance of Pancasila, namely a system that takes or combines various values of interest, social values, and the concept of justice into a prismatic legal bond, by taking the good elements. Such a legal system at least brings together the good elements of the three value systems and puts them in a balance relationship, namely:⁷
- a. The balance between individualism and collectivism,
 - b. The balance between *rechstaat* and the rule of law,
 - c. The balance between law as a tool to advance and law as a mirror of values that live in society,
 - d. Balance between religious and secular state.

General elections (*Pemilu*) are often interpreted as a democratic party. Elections are an important part of the standard and/or initial criteria for whether a country is categorized as democratic or non-democratic⁸. The requirements of a democratic state, which include a periodic change of leader, demand that regular general elections be held within a certain period of time. But actually, the momentum of the general election can be interpreted as more than just choosing and/or rotating leaders. Elections are one of the first steps in an effort to carry out structural transformation and improvement in order to achieve the noble goals of the nation and state using the instrument of people's power. In line with this, if it is related to the context of the Islamic community, the general election must be used as a momentum to evaluate, as well as efforts to reform and improve, as well as change for the better, especially for the interests and aspirations of Muslims.⁹

Based on this description, national legal politics in Indonesia based on Pancasila is a national legal policy that must be guided by Pancasila values as the basis of the state, including placing power under the power of the people, as contained in the fourth precept, namely democracy led by wisdom in deliberation. The values in Pancasila are further elaborated in the Articles of the Constitution of the Republic of Indonesia, among others in Article 1 paragraph (2) sovereignty in the hands of the people is carried out according to the Constitution, from these provisions it implies that in the Republic of Indonesia the highest power is the people which in its implementation is regulated in the Constitution, one form of the implementation of

⁷Zuhro, R. Siti, (2019), "Demokrasi dan Pemilu Presiden 2019", Jurnal Penelitian Politik, Volume 16, No. 1, June.

⁸Conie Pania Putri, Muhammad Syahri Ramadhan, (2018), Pola Ideal Sistem Pemilihan Umum Yang Demokratis (Studi Komparatif Sistem Pemilihan Umum di Australia dan Indonesia), *Jurnal thengkyang universitas Sjakhyakirti*, Palembang.

⁹Andreas Pandiangan. (2019). "Kelompok Penyelenggara Pemungutan Suara (Kpps) Pemilu 2019: Tanggungjawab Dan Beban Kerja". *The Journal of Society & Media*, Volume 3. See to Burhanuddin Muhtadi, (2013), Politik Uang dan Dinamika Elektoral Di Indonesia: Sebuah Kajian Awal Interaksi Antara Party-Id Dan Patron-Klien, *Jurnal Penelitian Politik Lembaga Ilmu Pengetahuan Indonesia*, Vol. 10 No. 1.

people's sovereignty is regulated in Article 22 E of the 1945 Constitution of the Republic of Indonesia concerning general elections.¹⁰

In another view, some Muslim intellectuals accept the term democracy with certain modifications in accordance with Islamic teachings, including Hamid Enayat, Fazrul Rahman, Muhammad Asad, and Javid Iqbal. Muhammad Asad's view, for example, states that the Legislative Assembly (*Syura*) - the DPR in Indonesia - must truly represent the entire community, both men and women. Likewise, Javid Iqbal's opinion²⁰ emphasizes the importance of selecting leaders in accordance with Islamic principles and paying attention to the implementation of sharia in the administration of the state. Another perspective states¹¹, that the concept of democratic values has been stated in several verses of the Qur'an and *Sunnah* which stipulate the importance of deliberation and election of leaders based on the *bai'at* of the *ummah*.

However, there are still some critical studies from Islamic intellectuals and experts on the relationship between Islam and democracy. One of them was stated by Prof. Hasbi as-Shiddieqy, an expert on Islamic law, in his book entitled *State Science in Islamic Fiqh*. He said that there are a number of differences between Islam and democracy, namely: First, in terms of the people. In modern democracy, the people are limited by geographical boundaries who live in a country, but in Islam the main thing is the unity of the creed. Second, the goal of western democracy is a worldly purpose, or a mere material goal. This is different from the goal of statehood in Islam, as formulated by Ibn Khaldun: "*Imamah* is to realize the benefit of the hereafter and the benefit of the world that returns to the benefit of the hereafter, because all the benefits of the world in the view of syarak must be adjusted to all the benefits of the hereafter. Third, the power of the people in western democracies is absolute. In Islam, the power of the people is limited by Islamic rules which are based on the Al-Quran and *Sunnah*¹².

The majority of Muslim intellectuals in Indonesia have accepted the basic criteria of democracy, in the form of majority government, people's political participation, free elections, and accountability. However, there are still differences of opinion when it comes to the philosophical realm, such as the nature of people's sovereignty vis a vis the sovereignty of God. This shows that Muslims in Indonesia tend to accept democracy from a procedural and organizational sense, not in a philosophical sense, because almost all of them still recognize the supremacy of sharia as the norm of Muslim life in the nation and state. Therefore, when

¹⁰Idul Rishan, *Duka Pemilu*, *Harian Analisis Kedaulatan Rakyat*, 14 May 2019. Kasman Abdulah, "Penyelenggaraan Pemerintahan dalam Konsep Good Governance", *Jurnal Meritokrasi*, Edition 2002. And "Penegakan Hukum yang Responsif dan Berkeadilan sebagai Instrumen Perubahan Sosial untuk Membentuk Karakter Bangsa", *Jurnal Prosiding Seminar Nasional Himpunan Sarjana Ilmu-ilmu Sosial*, Edition February 2017.

¹¹Pan Mohammad Faiz, "E-Voting Untuk Pemilu Presiden," *Majalah Konstitusi*, Edition April 2019. Robby A.M. Manoppo, (2019), *Perlindungan Hukum Terhadap Penyelenggara Pemilu Badan Ad Hoc Kpps Sebagai Upaya Meningkatkan Kualitas Pemilu*, *Jurnal KPU*. Bidang Evaluasi kelembagaan pemilu.

¹²Riki Rahmad, Khairul Fahmi, (2019), *Rekonstruksi Pembagian Tugas Dan Wewenang Kpps (Kelompok Penyelenggara Pemungutan Suara) Pasca Pemilu Tahun 2019*, *Jurnal Jurisprudence* Vol. 9, No. 2.

faced with the phenomenon of direct general elections which are procedural in nature, Indonesian Muslims do not have a problem with this.¹³

2. Research Methods

The method used in this paper by using a normative juridical approach is legal writing that fully uses secondary data in the form of written legal norms or other legal materials.¹⁴ Thus, the type of data used is secondary data, in the form of laws and regulations related to general elections, as well as views or concepts about general elections.

3. Results and Discussion

3.1. Election Law Politics as the Embodiment of People's Sovereignty in National Law and Islam

Democracy as the basis of state life gives an understanding that at the last level the people provide provisions in the main issues regarding their lives, including in assessing state policies, because these policies determine people's lives.¹⁵ Thus, a democratic state is a state that is organized based on the will of the people and the will of the people, or if viewed from the point of view of the organization it means the organization of the state which is carried out by the people themselves or with the consent of the people, because sovereignty is in the hands of the people.¹⁶ Therefore, the rule of law must be supported by a democratic system because there is a clear correlation between what is based on the constitution and the sovereignty of the people. In a democratic system, people's participation is the essence of this system, but democracy without legal regulation will lose its form and direction.¹⁷

Election legal politics places the law as a tool/means to realize people's sovereignty, constitutional election law politics can be seen in the 1945 Constitution of the Republic of Indonesia, namely¹⁸:

- a. Article 1 paragraph (1) Sovereignty in the hands of the people is carried out according to the Constitution,
- b. Article 22 E which reads as follows:
 - a) General elections are held in a direct, general, free, secret, honest and fair manner every five years

¹³Kornelius Benuf. (2019). "Harmonisasi Hukum: Pemilu Serentak dan Ketenagakerjaan, Analisis Yuridis terhadap Kematian KPPS Tahun 2019". *Jurnal Gema Keadilan* (ISSN: 0852-011) Volume 6, Edition II.

¹⁴Bambang Waluyo, *Metode Penelitian Hukum*, (Jakarta: Sinar Grafika, 1996),13.

¹⁵ Deliar Noer, *Pengantar ke Pemikiran Politik*, (Jakarta: Rajawali, 1983), 207.

¹⁶ Amir Machmaud, *Demokrasi, Undang-undang, Peran Rakyat*, (LP3S: Prisma No 8, 2010), 17.

¹⁷ Ridwan HR, *Hukum Administrasi Negara*, (Yogyakarta: UII Press, 2002), 7.

¹⁸Muhammad Nur Ismanu, (2019), Problematika Rekrutment Penyelenggara Pemilu di Tingkat TPS (Tempat Pemungutan Suara) Pada Pemilu Serentak 2019: Antara Regulasi dan Implementasi, *Jurnal Penelitian Politik*, Universitas Indonesia, Vol. 02, No. 02, December.

- b) General elections are held to elect members of the DPR, DPD, DPRD, President and Vice President, and DPRD.
- c) Participants in the general election to elect members of the DPR and DPRD are political parties
- d) Participants in the general election to elect the DPD are individuals
- e) General elections are held by a general election commission that is national, permanent and independent
- f) Further provisions on general elections are regulated by law.

The existence of election provisions in the 1945 Constitution of the Republic of Indonesia is intended to provide a stronger legal basis for elections as a vehicle for the implementation of popular sovereignty. With this provision, it will certainly guarantee the implementation of regular elections every five years, as well as guarantee the process and mechanism as well as the quality of the implementation of elections, namely direct, general, free, confidential, honest and fair.

The provisions of Article 22 E of the 1945 Constitution of the Republic of Indonesia, when added to the Constitutional Court Decision No. 3/PUU-V11/2009. The Constitutional Court stated that the provisions of the 1945 Constitution provide guidelines regarding elections including: a) elections are held periodically every five years, 2) the principle of *Luber* and *Jurdil* is adhered to, c) the purpose of the election is to elect members of the DPR, DPD, and DPRD, President and Vice President, d) election participants include political parties and individuals, e) regarding election organizers, besides that the Constitutional Court also states that other matters such as those related to the electoral system, electoral districts, participant requirements, and so on are delegated to legislators to determine legal policies. Such legal policies can be made as long as they do not negate the principles of people's sovereignty, equality, justice and non-discrimination.¹⁹

In general, support for democracy by Muslims is based on two main things, namely first, democratic values are in line with Islamic values in the life of the nation and state, especially the principle of deliberation. (QS. *Ali Imran*: 159 and QS. *Ash-Shura*: 38). Second, the democratic system is the right way to articulate the aspirations of Islam, because Muslims are the largest in Indonesia, while democracy contains aspects of majority government. In addition, they also strengthen support for democracy by basing it on historical aspects during the time of the Prophet and *al-Khulafa' al-Rashidin*.

Based on the classic book entitled *Al-Ahkaamus-sulthaaniyyah wal wilaayaatud-diiniyyah* written by Imam al-Mawardi (translated into Indonesian entitled *Constitutional Law and Leadership in Islamic Measures*), it is stated that Allah SWT has outlined to the people to choose a leader who becomes a successor and continue the prophetic function, maintain the implementation of religious teachings, hold political control, make policies that are based on

¹⁹Ni'martul Huda, M Imam Nasef, *Penataan Demokrasi & Pemilu Di Indonesia Pasca Reformasi*, (Jakarta: Kencana, 2017), 43.

Islamic law or do not conflict with it, and unite the people in a single leadership. *Imamah* (leadership) and *Imarah* are the basis for the implementation of Islamic teachings and the basis for the realization of the benefit of the people, so that people's lives become safe and prosperous. So therefore, the appointment and election of a leader (head of state) to lead the people is obligatory according to *ijma'*. However, the basis of the obligation is disputed, whether it is based on ratio or sharia. If the argument is based on sharia, then there is a verse of the Koran that is often quoted by scholars about the importance of leadership, namely Surah an-Nisaa' verse 59 which means:

"O you who believe, obey Allah and obey the Messenger (His), and ulil amri among you..." (QS. An-Nisaa': 59).

The verse above explains that every Muslim needs to obey the leaders who have been appointed, elected, or appointed among them as long as they are still carrying out leadership based on religious guidance and teachings.

In addition, it is also mentioned by al-Mawardi, that leadership or power is born from *bai'at* which requires a contract between the leader and the electoral council. In the current context, when the right to vote is in the hands of all the people, not the electoral council, the process of transferring or handing over power and authority to the leader is in the context of making a contract. Based on this contract, the leader gets legitimacy from the people to rule and has the right to be obeyed by the people. In addition, leaders also have obligations that must be fulfilled to their people, such as providing protection to them, and managing their interests properly and with a full sense of responsibility. In the concept of western political theory, Al-Mawardi's view is almost similar to John Locke's about the social contract which is published in his book entitled *Two Treatises of Government*. According to Locke, as a consequence of the existence of a social contract between the rulers/leaders on the one hand and the people on the other, the government is a trust, while the people are the trustors and at the same time the beneficiary (the giver of the mandate as well as their interests as mandated) able to show that the mandatory leadership must be legitimized by the people in the form of a contract which is implemented through voting in the General Election.

3.2. Simultaneous Election Arrangements as an Effort to Strengthen the Presidential Government System and Syura

Beginning with the Constitutional Court Decision No. 14/PUU-X1/2013 which partially granted the petition for judicial review of Act No. 48 of 2008 concerning the General Election of the President and Vice President, which partially granted the judicial review. In its decision, the Court stated that Article 3 paragraph (5), Article 12 paragraph (1) and paragraph (2), Article 14 paragraph (2) and Article 112 of Act No. 48/2008 did not have binding legal force. From the series of provisions which were declared to have lost their constitutional validity, the

Constitutional Court emphasized that the presidential and vice presidential elections must be held simultaneously with the elections for the DPR, DPD and DPRD.²⁰

In 2017 the State stipulates Act No. 7 of 2017 concerning General Elections, in its considerations, among others, mentions:

- a) that in order to ensure the achievement of national goals and objectives as stated in the preamble to the 1945 Constitution of the Republic of Indonesia, it is necessary to hold general elections to elect members of the DPR, DPD, President and vice president as well as DPRD as a means of realizing people's sovereignty to produce people's representatives and a democratic state government based on the 1945 Constitution of the Republic of Indonesia,
- b) It is necessary to regulate general elections as the embodiment of a democratic state administration system with integrity in order to ensure consistency and legal certainty, as well as effective and efficient elections.
- c) General elections must ensure the direct, general, free, confidential, honest and fair distribution of the people's votes.

The general explanation of Act No. 7 of 2017 states that in accordance with the provisions of Article 22 E of the 1945 Constitution of the Republic of Indonesia,

- a. Elections to elect the president and vice president, members of the DPR, members of the DPD and members of the DPRD are held on the basis of direct, general, free, confidential, honest and fair principles, once every five years. The holding of presidential and vice presidential elections is carried out with the aim of choosing a president and vice president who has strong support from the people so that they are able to carry out the functions of state government power in order to achieve national goals. The regulation of presidential and vice-presidential elections in this law is also intended to emphasize a strong and effective presidential government system, in which the elected president and vice president not only gain strong legitimacy from the people but in order to realize the effectiveness of government, a support base from the DPR is also needed.
- b) Elections for DPR members, DPD members and DPRD members are held by guaranteeing the principle of representation, which means that every Indonesian citizen is guaranteed to have representatives sitting in representative institutions who will voice the aspirations of the people at every level of government from the center to the regions. Elections that are held directly, publicly, freely, confidentially, honestly and fairly, are an absolute requirement to create quality, trustworthy, and able to carry out legislative institutional functions optimally, good and quality election

²⁰Pippa Norris, (2012), Are There Global Norms and Universal Standards of Electoral Integrity and Malpractice? Comparing Public and Expert Perceptions, (HKS Faculty Research Working Paper Series 152 RWP12-010, *John F. Kennedy School of Government*, Harvard University, p.8.
https://dash.harvard.edu/bitstream/handle/1/8506826/RWP12010_Norris.pdf?sequence=1&isAllowed=y

administration will increase the degree of healthy competition, participatory, and stronger and more accountable representation.

In principle, the election law was formed on the basis of simplifying and harmonizing and combining election arrangements contained in three laws, namely Act No. 42 of 2008 concerning the general election of President and Vice President, Act No. 8 of 2012 concerning the general election of members of the DPR, DPD and DPRD, also to answer political dynamics related to the arrangement of election organizers and participants, the electoral system, election management, and law enforcement in one law on General Elections.

Article 1 paragraph (1) of Act No. 7 of 2017 states that general elections are a means of people's sovereignty to elect members of the DPR, DPD, President and Vice President, and to elect members of DPRD which are carried out directly, publicly, freely, confidentially, honestly and fairly. Based on the provisions of the Article, the election to elect representatives and elect the President and Vice President shall be held jointly.

The presidential government system is a government system designed in such a way that the executive position is not responsible to the people's representative body, in this system the executive position does not depend on the people's representative body, while the legal basis for executive power is returned to the people's election.²¹

The presidential government system, according to the 1945 Constitution of the Republic of Indonesia, is more assertive, this can be seen in the middle of the change process when an agreement was made for the basis of the MPR members, among others, to reinforce the presidential government system.²² The presidential system of government theoretically supports the aspect of the legislature's support being very important. The presidential system of government will be strong when it has adequate support in the legislature.

The findings of Mark P. Jones' research can be considered to represent general findings about the correlation between increasing political support in the legislature and strengthening the presidential government system. In one of his research publications, Jones said ...all evidence indicates the functioning of the presidential system is greatly enhanced when the president is provided with a majority or near-majority in the legislature.²³ In other words, strengthening the presidential system is closely related to the availability of adequate political support in the legislature for a president. Adequate support is interpreted operationally as majority support (more than 50 percent) or almost a majority. If a president has less support than this threshold, it will be difficult for a president to carry out his government's agenda. The result is

²¹Moh. Mahfudz MD, Loc.cit, 72-73

²²See Guide to Corrections of the 1945 Constitution of the Republic of Indonesia, Secretariat of the People's Consultative Assembly of the Republic of Indonesia, 2007, 6.

²³Ni'matul Huda, M Imam Nasef, Op cit, 261

a lack or malfunction of presidential government system, or worse, the failure of the government system.²⁴

Countries that adopt a presidential system with a multiparty combination often have problems, this is because the combination presidential and multiparty is difficult to create majority support in parliament, resulting in ineffective governance because government policies often do not get support from parliament. This view is reinforced by the results of Scott Mainwaring's research which concludes that a multiparty system and a presidential government system are a difficult combination for a democratic government.²⁵ There are several main arguments, namely: 1) if the presidential and parliamentary elections are held separately, it is possible that the elected president is a president who does not get majority support in parliament, 2) coalitions formed in a presidentialism system tend to be fragile and easily fractured due to the indiscipline of political parties coalition, 3) to build the loyalty of his supporters, the president tends to be soft and accommodating by providing incentives for the coalition parties that support him, consequently the president is not free to make his own decisions because he is more held hostage by the interests of the coalition of parties that support him.²⁶

From the results of this thought, simultaneous elections found a correlation for strengthening the presidential system in Indonesia. Namely, by combining the implementation of the presidential election and the legislative election at the same time, it is hoped that it will result in the election of a president who has legislative support. According to Mann, simultaneous elections cause voters to choose the president and legislative members from the same party, as a result political parties that support the elected presidential candidate will have a great chance of winning the legislative elections.²⁷

Simultaneous elections based on Act No. 7 of 2017, to ensure an honest and fair election, there are articles that do not contain justice, namely:

- 1) Article 170 paragraph (1) State officials nominated by political parties or coalitions of political parties as candidates for president and vice president must resign from their positions, except for precedents, vice presidents, leaders and members of the MPR, leaders and members of DPR, leaders and members of DPD, governor, deputy governor, regent, deputy regent, mayor and deputy mayor.
- 2) Regarding the regulation of the Presidential Threshold, in the Election Act No. 7 of 2017 especially in Article 222, which is symbolized as a requirement to nominate a presidential candidate in the presidential election. The condition is to have 20% of the number of seats in the DPR or 25% of the nationally valid votes in the previous general election for members of the DPR (2014). This article is at the root of the debate,

²⁴Ibid

²⁵Ibid

²⁶Ibid

²⁷Ibid, 263

because the 2019 general elections were held simultaneously between the presidential and vice presidential elections and the general elections for members of the DPR, DPD, and DPRD which were certainly different from the previous elections. The procedures for determining, proposing and determining pairs of Presidential and Vice Presidential Candidates are regulated in Articles 221 – 239 of Act No. 7 of 2017 concerning Elections.

Soekarno said that "the Indonesian state is not one country for one person, not one country for one group even though the rich group. We established an "all for all", one for all", "all for one" state. The absolute condition for the strength of the Indonesian state is deliberation, representation and if we seek democracy, it should not be Western democracy, but deliberation that gives life."²⁸The existence of this Presidential threshold system in particular reaps the pros and cons among the public, it is proven that there are political parties that have submitted a judicial review of Act No. 7 of 2017.

The threshold system as stipulated in Article 222 of Act No. 7 of 2017, there are some publics who consider that this law is designed to win or facilitate the course of one candidate pair who will later advance in the 2019 presidential election or can be said to be discriminatory. It was the chairman of the Damai Aman Islamic Party (IDAMAN) who submitted a judicial review of Article 222. In the argument submitted, the Idaman Party considers that the article has expired because it uses the results of the 2014 Pileg as the threshold for the 2019 Presidential Election or it is stated in its posita that the provisions of Article 222 of the a quo Law are cinema tickets, so this cinema ticket has been torn to watch a movie showing that then. The Idaman Party also considered the article irrelevant because the 2019 Legislative and Presidential Elections were held simultaneously.

The judicial review cannot be granted by the Constitutional Court with the consideration that it considers that the Presidential threshold system is actually relevant to strengthen the Presidential system. With the Presidential threshold, the elected President can later have power in parliament. The Constitutional Court also considered that Article 222 did not expire because it was a new law passed by the government and the DPR in 2017, not the old law used to hold the presidential election in 2014, and the constitutional court firmly stated that Article 222 was not legal.

Apart from the Ideal Party, which filed a judicial review of Act No. 7 of 2017, there is also the Crescent Star Party (PBB) represented by Yusril Ihza Mahendra as the General Chair and Afriansyah Noor as the Secretary General who submitted a judicial review request to the Constitutional Court on September 5, 2017 based on the Deed of Receipt of the Application File No. 143/PAN.MK/2017 and recorded in the Constitutional Case Registration Book with No. 70/PUU-XV/2017 dated September 14, 2017, which has been revised and accepted at the Registrar's Office of the Court on October 16, 2017.

²⁸Yudi Latif, *Negara Paaripurna*, (Jakarta: Gramedia, 2011), 383

The 2019 simultaneous elections chose two pairs of presidential and vice presidential candidates who registered officially with the General Elections Commission (KPU), each of which was supported by a coalition party, namely: first, the pair Joko Widodo and Ma'ruf Amin were supported by the coalition party, namely the *Partai Demokrasi Indonesia Perjuangan* (PDIP), *Partai Golongan Karya* (Golkar), the *Partai Persatuan Pembangunan* (PPP), the *Partai Kebangkitan Bangsa* (PKB), *Partai Nasional Demokrasi* (Nasdem), *Partai Hati Nurani Rakyat* (Hanura), the two pairs of Prabowo Subianto and Sandiaga Uno supported by a coalition of parties namely: *Partai Gerakan Indonesia Raya* (Gerindra), *Partai Amanat Nasional* (PAN) and *Partai Keadilan Sejahtera* (PKS)²⁹

The results of the vote count carried out by the KPU on May 21, 2019 in the presidential and vice presidential elections showed that the pair Joko Widodo and Ma'ruf Amin came out as winners by winning 85,607,362 votes or as much as 55.50%,³⁰ for the election of members of the DPR, the political parties that win the election who sit as members of the DPR indicate that the political parties that carry the presidential pair Joko Widodo and Ma'ruf Amin constitute the majority of members of the DPR, namely as follows:

Table 1. Composition of political parties that have seats in the DPR RI for the 2019-2024 period

No	Party	Chair	%
1	Indonesian Democratic Party of Struggle	PDIP	128, 26%
2	Working class party	Golkar	85, 14.78%
3	National Democratic Party	Nasdem	59, 10, 26%
4	National Awakening Party	PKB	58, 10, 09%
5	United Development Party	PPP	19, 3, 30%
6	Greater Indonesia Movement Party	Gerindra	78, 13, 57%
7	Prosperous Justice Party	VFD	50, 8, 70%
8	National Mandate Party	PAN	44, 7.65%
9	Democratic party	Democrat	54, 9, 39%

Source: *Election Primary data of Indonesia, 2019 (Edited)*.

The table above shows that the party that carries the pair Jokowi and Ma'ruf Amin has gained more seats than the political parties supporting Prabowo and Sandaga Uno, which is 60.69%, thus the majority of votes in the DPR will support the policies of the elected president.

The purpose of simultaneous elections is to realize the principle of people's sovereignty, so through simultaneous elections in order to strengthen the presidential system, we must not forget the principles of democracy, meaning that the programs that will be carried out by the

²⁹ Map of the bearers of the 2019 presidential and vice presidential candidates, <http://www.cnbcindonesia.com/news/20180810195720-16-28087>, downloaded September 2020

³⁰ Indonesian House of Representatives (2014-2019), <http://id.wikipedia.org/wiki/Dewan>, downloaded September 2020

president are in order to realize the prosperity and welfare of the people, therefore The legal politics made between the president and the DPR is in order to realize the state goals as stated in the preamble to the 1945 Constitution of the Republic of Indonesia, as stated by Mahfudz MD on National Legal Politics.

According to the majority of scholars, forming a state, administering a government, and appointing a head of state are obligatory *kifayah*. Some of the reasons underlying this are in order to continue the leadership that has been inherited by the Prophet Muhammad SAW, avoid danger and prevent harm, as well as carry out various obligations and realize perfect justice with a fair government. Considering that the General Election is a momentum as well as an effort to uphold ideal power that will fight for the interests of the people, it is important to actively participate in it. Thus, participating in elections can be categorized as mandatory, even though the law was originally permissible, because it became a means to enforce the mandatory, namely choosing a leader. As *fiqh* rules:

In the context of elections in Indonesia, the Indonesian Ulema Council (MUI) has also issued a *fatwa* on the obligation to choose a leader in the general election. This was stated in the decision of the Ijtima Ulama *Fatwa* Commission throughout Indonesia in Padang Panjang on January 26, 2009 / 29 Muharram 1430 H, which states the following:

- 1) General election in the view of Islam is an effort to choose a leader or representative who meets the ideal requirements for the realization of common goals in accordance with the aspirations of the people and the interests of the nation;
- 2) Choosing a leader in Islam is an obligation to uphold the Imamate and the Emirate in common life;
- 3) *Imamah* and Emirate in Islam require conditions in accordance with religious provisions in order to realize the benefit of society;
- 4) Choosing a leader who is faithful and devoted, honest (*shiddiq*), trusted (*amanah*), active and aspirational (*tabligh*), has the smart and has ability (*fathonah*), and fights for the interests of Muslims, the law is obligatory;
- 5) Choosing a leader who does not meet the requirements as stated in point 4 (four) or does not vote at all even though there are candidates who meet the requirements, the law is haram.

The MUI *fatwa* is indeed not a type of statutory regulation that has binding legal force. The MUI *fatwa* is not binding on the people as a whole, only binding on people and groups who have an interest in the MUI *fatwa*. However, the position of MUI as a forum for scholars makes its *fatwa* can be used as a reference and certain guidelines for the people.

The Indonesian People's Consultative Assembly (MPRRI) as the institution authorized to amend and stipulate the Constitution has the authority to form MPR decisions on state policies which contain guidelines for the implementation of development that must be carried out by the president.

4. Conclusion

Simultaneous elections found a correlation for strengthening the presidential system in Indonesia. Namely, by combining the implementation of the presidential election and the legislative election at the same time, it is hoped that it will result in the election of a president who has legislative support. Simultaneous elections cause voters to choose a president and legislative members from the same party, as a result political parties that support the elected presidential candidate will have a great chance of winning the legislative elections. Likewise, political participation in general elections is a form of effort to encourage good/*maslahah* and prevent evil, as is the obligation of every Muslim, it can be interpreted as relating to the form of constructive criticism and suggestions that citizens can convey, both individually and collectively, to the government and their representatives. Election momentum is the right time to evaluate the past and build hope for a better tomorrow, at least in the next five years.

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