

# REVIEWING THE CONSTITUTIONAL RIGHTS ON DEMOCRATIC ELECTION PRACTICES IN INDONESIA AND THE PHILIPPINES

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*submitted July 2022 – reviewed November 2022 – accepted June 2023*

## **Abstract**

*One form of democracy's embodiment is through general elections. The Philippines and Indonesia are two countries in the Southeast Asian region that are currently still developing their democratic practices through general elections. This study aims to compare how the general elections have been enforced in the two countries to obtain input on the implementation of democracy in Indonesia. The normative legal research design was used in this study, and data collection was carried out through a literature study. The functional comparative approach compares the implementation of general elections in the two countries. The data collected by literature searches were analyzed using a qualitative juridical analysis method. The analysis shows that although the two countries have declared themselves democracies and the general election is the form of their implementation in the constitution, general elections have been used to perpetuate power in both countries. The two countries have differences in implementing general elections due to historical differences and national problems. The most distinguishing matter that can be learned is how the Philippines implemented the general election through the existence of a plebiscite that makes the people more involved in the state process. In addition, information technology in the Philippines' general election has also made the process of conducting the general elections effective and efficient. This study is still limited to analyzing general elections at the national level, especially the presidential and vice-presidential elections. Further research on the general elections of legislature members and regional heads can add to our understanding of the comparative implementation of the two countries.*

**Keywords:** *Democracy; Election Law; General Elections; Plebiscite.*

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## A. Research Background

Establishing a state creates a place where citizens can act as an organised, self-governing community.<sup>1</sup> The state represents a society's political, social, and economic order and distinguishes it from a random gathering of people.<sup>2</sup> Societies form states with the integration of authority higher than the authority of each individual or group in the society, and that authority is coercive. The community lives together to achieve and fulfil common interests.<sup>3</sup> The concept of "state", as defined by Max Weber, is an institution or political organisation that, through its administrative power, runs and implements existing rules.<sup>4</sup> The institution or political organisation acts based on laws made by the government. It is implemented with coercive powers and carried out in the communal area of the community itself.<sup>5</sup> The state is a modern institution due to its unique characteristics, such as a clear separation between the private sector and the government, the ability to exercise sovereignty, control the work system, and collect taxes from its population.<sup>6</sup>

Indonesia is a unitary, republican, rule-of-law state whose sovereignty rests with the people. Article 1 of the 1945 Constitution guarantees justice for all its citizens by standing on the law, and everyone is subject to it.<sup>7</sup> In a state of law, everyone has rights against the state, and state power is separated to protect citizens' rights. State organising bodies, law-making bodies, and judicial bodies each hold a portion of state power, with judicial bodies having an independent position to protect citizens. All state bodies

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<sup>1</sup> Timothy Endicott, "The Purpose of a State", *The American Journal of Jurisprudence*, Vol. 66, No. 1, 2021, p. 82.

<sup>2</sup> Mark R. Rutgers, "The Purpose of the State", *Administrative Theory & Praxis*, Vol. 30, No. 3, 2008, p. 350.

<sup>3</sup> Harold Joseph Laski, 2017, *The State in Theory and Practice*, Routledge, New York, p. 8-9.

<sup>4</sup> Andreas Anter, 2014, *Max Weber's Theory of the Modern State*, Palgrave Macmillan UK, London, p. 11.

<sup>5</sup> Robert Morrison MacIver, 1928, *The Modern State*, Oxford University Press, London, p. 22.

<sup>6</sup> John Hoffman, *et.al.*, 2015, *Introduction to Political Theory*, 3rd Edition, Routledge, London, p. 31.

<sup>7</sup> Muntoha, 2013, *Negara Hukum Indonesia Pasca Perubahan UUD 1945*, Kaukaba Dipantara, Yogyakarta, p. 1. See also, Dietmar von der Pfordten, *On the Foundations of the Rule of Law and the Principle of the Legal State/Rechtsstaat* in James R. Silkenat, *et.al.*, 2014, *The Legal Doctrines of the Rule of Law and the Legal State (Rechtsstaat)*, Springer International Publishing, Cham, p. 15-28.

should not be arbitrary and must pay attention to the rules of law that apply, and all citizens must be subject to the rules of law that apply.<sup>8</sup>

The principle of democratic nature is an essential part of the rule of law, as it ensures the participation of citizens in decision-making processes. Democratic nature guarantees that the determination and application of existing laws and regulations are not carried out unilaterally by or for the benefit of the parties in power but instead reflect the values of justice in society.<sup>9</sup> A country's democratic nature has many advantages, including preventing autocratic governments, providing human rights, personal freedom, moral responsibility, human development, political equality, and greater prosperity than non-democratic nations.<sup>10</sup> This concept can be a platform that supports human freedom, respect for human rights, and freedom of expression.<sup>11</sup> Its positive impact on countries that practice it is the country's stable development over time, especially in the socio-economic field; even countries with low incomes can enjoy the benefits of this stable development compared to autocratic countries.<sup>12</sup> The concept of democracy is the best alternative to other concepts of government, even though democracy itself is not a perfect concept.<sup>13</sup>

Citizen participation in government is essential for democracy, and general elections are the most straightforward way to gauge this. In democratic countries, the high political involvement of citizens shows that people are following and comprehending political issues and are willing to engage in activities that determine the

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<sup>8</sup> Sudargo Gautama, 1983, *Pengertian tentang Negara Hukum*, Alumni, Bandung, p. 21. See also, Wirjono Prodjodikoro, 1989, *Asas-Asas Hukum Tata Negara di Indonesia*, Dian Rakyat, Jakarta, p. 2.

<sup>9</sup> Jimly Asshiddiqie, 2010, *Konstitusi dan Konstitusionalisme Indonesia*, Sinar Grafika, Jakarta, p. 123-134. See also, Politieacademie, "Democratische Rechtsstaat", <https://thesaurus.politieacademie.nl/Thesaurus/Term/4391>, accessed 26 October 2022.

<sup>10</sup> Ramlan Surbakti, et.al., 2008, *Perekayasaan Sistem Pemilu untuk Pembangunan Tata Politik Demokratis*, Kemitraan, Jakarta, p. 9-10.

<sup>11</sup> United Nations, "Democracy", <https://www.un.org/en/global-issues/democracy>, accessed 26 October 2022.

<sup>12</sup> Morton H. Halperin, et.al., 2005, *The Democracy Advantage: How Democracies Promote Prosperity and Peace*, Routledge, New York, p. 33.

<sup>13</sup> Robert Alan Dahl, 1989, *Democracy and Its Critics*, Yale University Press, New Haven, p. 51.

direction of national policies.<sup>14</sup> General elections can be considered democratic if they are competitive, periodic (held at certain times), inclusive, and definitive, where free citizens elect officials who can criticise the government, disseminate their criticisms, and provide other options for government policies.<sup>15</sup> With the participation of citizens in the democratic process, democracy will not lose its legitimacy and power as a guide.<sup>16</sup> Similarly, selecting executive leaders and representatives through elections demonstrates that the state is democratic.<sup>17</sup>

Article 1, paragraph (2) of the 1945 Constitution of the Republic of Indonesia is normative evidence that Indonesia is a democratic state. The general election system in Indonesia consists of (i) general elections for the People's Representative Council (PRC), Regional Representative Council (RRC), and Regional People's Representative Council (RPRC); (ii) general elections for the President and Vice President; and (iii) general elections for Regional Heads and Deputy Regional Heads. Implementing general elections as one of the principles of democracy in Indonesia is currently regulated by Law No. 7 of 2017 on General Elections as last amended by Government Regulation in Lieu of Law No. 1 of 2022 on Amendments to Law No. 7 of 2017 on General Elections. This legal regulation is a combination of three previous laws that regulated general elections separately, namely: Law No. 42 of 2008 on Presidential and Vice-Presidential General Elections; Law No. 15 of 2011 on the Organization of General Elections; and Law No. 8 of 2012 on General Elections for Members of the PRC, RRC, and RPRC. In particular, the general elections for Regional Heads and Deputy Regional

<sup>14</sup> André Blais, 2000, *To Vote or Not to Vote?: The Merits and Limits of Rational Choice Theory*, University of Pittsburgh Press, Pittsburgh, p. 113. See also, G. Bingham Powell, *Conclusion: Why Elections Matter* in Lawrence LeDuc, et.al., 2014, *Comparing Democracies 4: Elections and Voting in a Changing World*, Sage Publications, Los Angeles, p. 203-204.

<sup>15</sup> Jeane J. Kirkpatrick, "Democratic Elections and Democratic Government", *World Affairs*, Vol. 147, No. 2, 1984, p. 63.

<sup>16</sup> Steven Weldon, et.al., *Democratic Structures and Democratic Participation: The Limits of Consensualism Theory* in Jacques Thomassen, 2014, *Elections and Democracy: Representation and Accountability*, Oxford University Press, Oxford, p. 113.

<sup>17</sup> José Antônio Cheibub, 2007, *Presidentialism, Parliamentarism, and Democracy*, Cambridge University Press, New York, p. 27.



Heads are regulated by Law No. 1 of 2015 on the Enactment of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors into Law, as last amended by Law No. 6 of 2020 on the Enactment of Government Regulation in Lieu of Law No. 2 of 2020 on the Third Amendment to Law No. 1 of 2015 on the Enactment of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors into Law. Since enacting Law No. 7 of 2017 on General Elections, Indonesia has held presidential and vice-presidential elections in 2019 and regional head elections in 2020.

In the Southeast Asian region, the Philippines and Indonesia have embraced a multipartite presidential democratic political system. The movement towards multipartite democracy in the Philippines began following the People's Power Revolution in 1986.<sup>18</sup> The normative evidence that the Philippines is a republic with a democratic system is in Article 2 Section 1 of the 1987 Constitution of the Republic of the Philippines with *Batas Pambansa Bilang* 881 establishes the legal foundation for holding elections in the Philippines through the Omnibus Election Code of the Philippines. Since 1986, the Philippines has conducted six presidential and vice-presidential elections, in 1992, 1998, 2004, 2010, 2016, and 2022. The country has had 16 presidents from the revolutionary era of the republic to 2022, making it the oldest nation in Southeast Asia and even Asia to run a presidential system.<sup>19</sup>

Despite a gradual increase yearly, the Indonesian Democracy Index, which the Central Statistics Agency regularly publishes, shows that the country's democracy has remained moderate from 2009 to 2020. The weakest aspect of democracy implementation is the political rights aspect, particularly citizen participation in

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<sup>18</sup> Avery Poole, "Breaking New and Controversial Ground?: Democracy in ASEAN", *Democratic Theory*, Vol. 3, No. 2, 2016, p. 51.

<sup>19</sup> Mark R. Thompson, *The Philippines: Imperiled and Imperious Presidents (But Not Perilous Presidentialism)* in Marco Bünte, *et.al.*, 2022, *Presidentialism and Democracy in East and Southeast Asia*, First ed. Routledge, London, p. 40-62.

decision-making and government oversight, which is still very low.<sup>20</sup> Before and after the concurrent general election in 2019, the National Commission on Human Rights (NCHR) found that social-political conditions in Indonesia were characterised by intolerance and discriminatory attitudes. In addition, the fulfilment of voting rights for vulnerable groups and the socialisation of general election implementation still need to be improved.<sup>21</sup> The general election based on Law No. 7 of 2017 on Elections is also considered burdensome for election organisers and voters.<sup>22</sup> The high cost of campaigns in the election process contributes to the poor implementation of general elections in Indonesia, forcing politicians to use corrupt practices to fund their campaigns.<sup>23</sup>

The conduct of general elections and the citizens' freedom to form political organisations prove that the Philippines successfully carried out the electoral process. Citizens' perception of the election's fairness and freedom is considerably high, demonstrating the country's ability to uphold democratic principles.<sup>24</sup> Filipino citizens' unwavering dedication to political values, attitudes, and beliefs is another admirable aspect of their political maturity.<sup>25</sup> Findings from a 2020 study on the voters' perception of the electoral process reveal that it is generally acceptable to them.<sup>26</sup>

The 2022 annual report by the International Institute for Democracy and Electoral Assistance (International IDEA) reveals a decline in democracy in the Asia Pacific

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<sup>20</sup> Badan Pusat Statistik, 2021, *Statistik Politik 2021*, Badan Pusat Statistik, Jakarta, p. 90.

<sup>21</sup> Komisi Nasional Hak Asasi Manusia Republik Indonesia, 2019, *Pemilu 2019: Pemenuhan Hak Konstitusional Warga Negara*, Komisi Nasional Hak Asasi Manusia Republik Indonesia, Jakarta, p. 22.

<sup>22</sup> Syamsuddin Haris, *Sistem Pemilu Serentak 2019: Evaluasi dan Refleksi* in Eko Agus Wibisono, 2019, *Perihal Refleksi Pemilu Serentak 2019*, Badan Pengawas Pemilihan Umum, Jakarta, p. 152.

<sup>23</sup> Nathan Allen, *Electoral Systems in Context: Indonesia* in Erik S. Herron, *et.al.*, 2018, *The Oxford Handbook of Electoral Systems*, Oxford University Press, New York, p. 932.

<sup>24</sup> Amy L. Freedman, *The State of Democracy in Asia* in Shiping Hua, 2018, *Routledge Handbook of Politics in Asia*, Routledge, London, p. 434. See also, Asian Barometer Survey, "Data Release - 5th Wave", <https://asianbarometer.org/data?page=d10>, accessed 11 October 2022.

<sup>25</sup> Anthony Lawrence Borja, *et.al.*, 2022, *The 2022 Philippine Elections Primer: A Democratic Citizenship Perspective*, The East Asia Institute, Seoul, p. 3.

<sup>26</sup> Glenn L. Velmonte, "Voters Practices in the Philippine Election", *Journal of Critical Reviews*, Vol. 7, No. 8, 2020, p. 22.

region.<sup>27</sup> The Economist Intelligence Unit also reports that Indonesia and the Philippines have experienced a drop in their Democracy Index since 2015. While Indonesia's Democracy Index showed significant improvement in 2021, the country's scores for electoral processes and pluralism categories remain lower than those of the Philippines over the ten years from 2012.<sup>28</sup> Despite high voter turnout in both countries, the formal institutions that oversee democracy in Indonesia and the Philippines function inadequately and tend to be neglected in support of political mechanisms.<sup>29</sup> In 2015, Kawanaka's research found that both countries' electoral administration capacity remained low, but Indonesia performed better in neutrality.<sup>30</sup>

This study aims to examine the implementation of electoral processes in Indonesia and the Philippines to explore the embodiment of democratic nature through these processes and provide input to improve electoral processes in Indonesia.

## **B. Research Method**

The study in question utilises normative legal research by adopting a comparative law approach. The approach employed in this study is a functional comparison<sup>31</sup> by examining the Indonesian and Philippines approaches to democratic elections. Therefore, it employs secondary data by using primary legal materials of both countries, namely both countries' Constitutions, Indonesian Law, the Government Regulation of Indonesia, the "*Batas Pambansa Bilang*" of the Philippines, the Philippines' Republic Act, and the COMELEC Resolution, secondary such as journal articles and books, and

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<sup>27</sup> International Institute for Democracy and Electoral Assistance (International IDEA), 2022, *The Global State of Democracy 2022: Forging Social Contracts in a Time of Discontent*, International Institute for Democracy and Electoral Assistance (International IDEA), Stockholm, p. 18.

<sup>28</sup> The Economist Intelligence Unit, 2022, *Democracy Index 2021: The China Challenge*, The Economist Intelligence Unit Limited, London, p. 34.

<sup>29</sup> Scot Schraufnagel, *et.al.*, "*Voter Turnout in Democratizing Southeast Asia*", *Taiwan Journal of Democracy*, Vol. 10, No. 1, 2014, p. 1-22.

<sup>30</sup> Takeshi Kawanaka, "The Stakes of Politics and Electoral Administration: A Comparative Study of Southeast Asian Democracies", *IDE Discussion Paper*, Vol. 536, 2015, p. 1-26.

<sup>31</sup> Geoffrey Samuel, 2014, *An Introduction to Comparative Law Theory and Method*, Bloomsbury Publishing, Oxford, p. 65-78.

tertiary legal materials, namely law dictionaries. Data collection is done through a thorough examination of existing literature which is then analysed using the qualitative juridical analysis method.<sup>32</sup>

### C. Research Result and Analysis

The term "democracy" generally refers to a collective decision-making process characterised by the participation of individuals with equal rights in the decision-making process. Democracy represents the "will" of the people as it is embodied in the state's legal order. On the other hand, autocracy represents the opposite of democracy as it constrains citizens from participating in the creation of legal order, and the alignment between the will of the citizens and the legal order is not guaranteed.<sup>33</sup> According to David Beetham and Kevin Boyle, democracy is essential to collective decision-making. It reflects the desire to make decisions that impact on a group as a whole, where all members have equal rights in decision-making. Democracy has principles that control society in the collective decision-making process and ensure that all individuals have equal rights in the control of decision-making.<sup>34</sup>

*Democracy* is a notion that emphasises that power comes from, by, and for the people. The idea of power from, by, for, and with the people is a more participatory interpretation of democracy. In other words, power is recognised to originate from the people, and therefore it is the people who ultimately determine and direct the course of the nation's life. The entire system of government is fundamentally designed for the people themselves. Ideally, a good state is run together with the people, meaning that it

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<sup>32</sup> Ishaq, 2017, *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, serta Disertasi*, Alfabeta, Bandung, p. 66-70.

<sup>33</sup> Hans Kelsen, 1949, *General Theory of Law and State*, Harvard University Press, Cambridge, p. 284.

<sup>34</sup> David Beetham, *et.al.*, 2009, *Introducing Democracy: 80 Questions and Answers*, 2nd Edition, UNESCO Publishing, Paris, p. 18-20.

involves the broadest possible participation of society.<sup>35</sup> Jimly Asshiddiqie's definition of people's sovereignty includes four characteristics: the highest power lies in the hands of the people; it is implemented for them; by them; and by continuously opening up and involving as many people as possible in the administration of the state.<sup>36</sup>

*Democracy* is a concept that involves collective decision-making and includes various types of groups such as families, volunteer organisations, economically based companies, state organisations, transnational organisations, and global organisations. It does not have any normative weight and does not aim to answer any normative questions. The definition of democracy also includes a profound meaning for the equality it demands, which can be formal or substantive in the deliberation process leading up to the vote.<sup>37</sup>

Ideally, democracy can be divided into two types based on different constitutions in varying degrees: direct democracy and representative democracy. Citizens performing the legislative, executive, and judicial functions in a sizable gathering or joint session define direct democracy. Ancient Greece had a form of direct democracy, but it was limited to children, women, and enslaved people. During times of war, the principles of democracy were replaced with autocracy, where every person had to declare loyalty to their leader. The leader is then democratically selected through joint meetings.<sup>38</sup> The second type of democracy is an indirect democracy, where the people elect a parliament to perform the legislative function. In contrast, executive and judicial functions are carried out by officials elected through general elections.<sup>39</sup>

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<sup>35</sup> Jimly Asshiddiqie, 2005, *Hukum Tata Negara dan Pilar-Pilar Demokrasi: Serpihan Pemikiran Hukum, Media, dan HAM*, Konstitusi Press, Jakarta, p. 241.

<sup>36</sup> Salim, *et.al.*, 2017, *Penerapan Teori Hukum pada Penelitian Disertasi dan Tesis*, Rajawali Pers, Depok, p. 175.

<sup>37</sup> Tom Christiano, *et.al.*, "Democracy", <https://plato.stanford.edu/entries/democracy>, accessed 07 August 2022.

<sup>38</sup> David Altman, 2019, *Citizenship and Contemporary Direct Democracy*, First Edition, Cambridge University Press, Cambridge, p. 6-288.

<sup>39</sup> Salim, *et.al.*, *Op.Cit.*, p. 176. See also, Frederick G. Whelan, 2019, *Democracy in Theory and Practice*, Routledge, New York, p. 218.

Democracy can be classified into four different levels based on the scope and intensity of citizen participation in the decision-making and implementation processes, which are as follows: procedural democracy; aggregative democracy; deliberative democracy; and participatory democracy.<sup>40</sup> Procedural democracy, also known as minimal democracy, is characterised by political parties or candidates competing with one another to persuade the public to vote for them to hold positions in the government, whether at the central or regional level (legislative or executive).<sup>41</sup> This type of democracy is minimalist, as it solely pertains to the procedural aspects of democracy rather than the outcomes that may be achieved; the only relevant feature of this democracy is its adherence to the procedural rules that are in place.<sup>42</sup> There are two significant elements of this democracy: fair competition among parties or candidates; and citizen participation in evaluating and deciding on this competition.<sup>43</sup> In this case, democracy is limited to the citizens' participation. Those citizens are the ones who have the right to vote for their representatives or heads of government. Voting was done through direct, universal, free, secret, fair, and accountable elections, which included the option of not re-electing the same candidate if they failed to fulfil their political promises. Therefore, democracy tends to be seen as the right of political parties or winning candidates in general elections to govern (to make and implement laws and other public policies).<sup>44</sup>

The second level is aggregative democracy, where democracy is viewed as participation in general elections and citizens' opinions, preferences, and evaluations in determining the contents of legislation, policies, and other public rules. Aggregative

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<sup>40</sup> Ramlan Surbakti, *et al.*, *Loc.Cit.*

<sup>41</sup> Joseph A. Schumpeter, 2003, *Capitalism, Socialism, and Democracy*, Routledge, London, p. 269.

<sup>42</sup> Maria Paula Saffon, *et al.*, "Procedural Democracy, the Bulwark of Equal Liberty", *Political Theory*, Vol. 41, No. 3, 2013, p. 441-481.

<sup>43</sup> Samuel P. Huntington, "Democracy's Third Wave", *Journal of Democracy*, Vol. 2, No. 2, 1991, p. 12-34.

<sup>44</sup> Jason Brennan, *et.al.*, 2014, *Compulsory Voting: For and Against*, First Edition, Cambridge University Press, New York, p. 127.

democracy assumes that the person who knows best what is best for themselves is themselves, not someone else. Public policy and legislative regulations are derived from the general public's opinions, with the opinions of the majority of voters being the benchmarks for decision-making.<sup>45</sup>

Deliberative democracy is the third level of democracy, where democracy is not only viewed from the perspective of whether policies and legislative regulations are formulated based on the desires and general views of citizens but also according to the will of each citizen.<sup>46</sup> In this view of democracy, policies and legislative regulations must be formulated based on specific considerations and reasons that every citizen can accept. Therefore, this view of democracy is more suitable for polarised and divided societies, even though the transformation process takes a long time.<sup>47</sup> The emergence of this view stems from the opinion that democracy is the ability of every citizen to govern themselves (self-government), which means rejecting tyranny but demanding public accountability. The consequence of a government based on rational reasons and considerations that assess the importance of individual autonomy is political equality among citizens. Different institutions, such as social organisations, political parties, representative institutions, and other public spaces, carry out political decisions through open deliberations based on reasoned rule.<sup>48</sup>

The fourth level of democracy is "participatory democracy", which emphasises the direct participation of all citizens with the right to vote in decision-making. This type of democracy depends on broader civil rights supporting all citizens' political actions, such as freedom of political speech, assembly, and organisation, and freedom to engage in

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<sup>45</sup> Robert Alan Dahl, *Op.Cit.*, p. 141–142. *See also*, Fabienne Peter, 2008, *Democratic Legitimacy*, Routledge, New York, p. 7-30.

<sup>46</sup> André Bächtiger, *et.al.*, *Deliberative Democracy: An Introduction* in André Bächtiger, *et.al.*, 2018, *The Oxford Handbook of Deliberative Democracy*, Oxford University Press, Oxford, p. 1-32.

<sup>47</sup> Nicole Curato, *et.al.*, "Twelve Key Findings in Deliberative Democracy Research", *Daedalus*, Vol. 146, No. 3, 2017, p. 28-38.

<sup>48</sup> Jon Elster, *Deliberation and Constitution Making* in Jon Elster, 1998, *Deliberative Democracy*, Cambridge University Press, Cambridge, p. 97-122. *See also*, Amy Gutmann, 2004, *Why Deliberative Democracy?*, Princeton University Press, Princeton, p. 133-138.

protests and demonstrations.<sup>49</sup> Although direct participation does not occur at every level of decision-making or on public issues, it is often done, especially when making essential policies and when there is significant use of power. Through participatory democracy, all citizens interact directly with each other when discussing policies or legislation to address problems they face together.<sup>50</sup>

A state with a democratic political system is characterised by opportunities for citizens to freely express their opinions regarding their policy choices and the freedom to participate in policy-making processes.<sup>51</sup> Strong democracies based on the notion that citizens can govern themselves and unite around shared interests, regardless of their understanding of citizenship, exemplify a distinctive form of participatory democracy. This society of citizens can also achieve common goals and have a reciprocal relationship based on citizenship attitudes through existing participatory institutions. Citizens can participate in various forms of political decision-making. Their implementation is carried out routinely, thereby rekindling the ideal aspirations of Republican citizens actively involved in their community's politics.<sup>52</sup>

The form of political participation in modern society can be observed in indirect democracy, in which citizens elect politicians responsible for most political decision-making. Political participation provides an opportunity for citizens in a democratic system to communicate their concerns and desires to the government and to force the government to respond to these requests.<sup>53</sup> In an indirect democracy, citizens participate by becoming voters and choosing officials who best represent their interests. The elected officials are responsible for implementing public policies and acting on

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<sup>49</sup> Aidan Ricketts, 2012, *The Activists' Handbook: A Step-by-Step to Participatory Democracy*, Zed Books, London, p. 114–115.

<sup>50</sup> Benjamin R. Barber, 2004, *Strong Democracy: Participatory Politics for a New Age*, University of California Press, Berkeley, p. 150-155.

<sup>51</sup> Marc Hooghe, *Citizenship and Participation* in Lawrence LeDuc, et.al., 2014, *Comparing Democracies 4: Elections and Voting in a Changing World*, Sage Publications, Los Angeles, p. 58.

<sup>52</sup> Benjamin R. Barber, *Op.Cit.*, p. 117-118.

<sup>53</sup> Sidney Verba, et.al., 1995, *Voice and Equality: Civic Voluntarism in American Politics*, Harvard University Press, Cambridge, p. 37. See also, Marc Hooghe, *Op.Cit.*, p. 60.



behalf of the citizens.<sup>54</sup> General elections are the most straightforward form of citizen political participation to measure. High levels of citizen political participation in countries with democratic systems indicate that citizens understand and follow political issues and are willing to engage in political activities that determine the direction of government policies.<sup>55</sup>

In their implementation, general elections must continue to uphold democratic principles (democratic general elections). A general election's competitive, regular, inclusive, and definitive conduct will reveal whether or not it is democratic. Citizens participating in the general election process must be free to voice their opinions to the government, including disseminating them.<sup>56</sup> The Asian Electoral Stakeholder Forum also maintains that democratic general elections should have a legal framework, fair competition, a professional organising body, inclusive citizen participation, and effective adjudication and dispute resolution.<sup>57</sup> Competition and rivalry in general elections must be conducted fairly. Otherwise, citizens will only be used as symbolic tools to support the government's activities. The incumbents will always win by a large margin over the opposition, which is also only symbolic.<sup>58</sup> With the conduct of democratic general elections, general elections can become a mechanism that maintains stability in the democratic system. The power transfer can also be peaceful despite changes in the political reference framework after general elections. Evaluation of the government can also be carried out properly because, through democratic general elections, citizens can renew or withdraw the mandate to govern.<sup>59</sup>

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<sup>54</sup> Kathe Callahan, "Citizen Participation: Models and Methods", *International Journal of Public Administration*, Vol. 30, No. 11, 2007, p. 1186.

<sup>55</sup> Marc Hooghe, *Op.Cit.*, p. 73-74.

<sup>56</sup> Jeane J. Kirkpatrick, *Loc.Cit.*, p. 63.

<sup>57</sup> Asian Electoral Stakeholder Forum, "Indicators of Democratic Elections", <http://aesf.anfrel.org/wp-content/uploads/2019/01/2015-Dili-Indicators-of-Democratic-Elections.pdf>, accessed 11 October 2022.

<sup>58</sup> Marc Hooghe, *Op.Cit.*, p. 118.

<sup>59</sup> Waldemar Wojtasik, "Functions of Elections in Democratic Systems", *Political Preferences*, No. 4, 2013, p. 36.

## **1. The Implementation of General Elections in Indonesia**

The democratic governance concept that Indonesia envisioned in their statehood is embodied in the fourth paragraph of the Preamble to the Constitution of the Republic of Indonesia of 1945. It states that the structure of the state is based on the people's sovereignty. This concept is reiterated in Article 1, paragraph (2) of the Constitution, which states that the state's sovereignty is vested in the Indonesian people. People's sovereignty implies that they are sovereign and responsible and have the right and obligation to democratically elect their leaders and representatives. The elected leaders will form a government that serves and administers society, while the elected representatives will oversee the functioning of the government.

General election implementation as the manifestation of democracy in Indonesia can be found in Article 22E of the Constitution of the Republic of Indonesia of 1945. It was held directly, freely, secretly, honestly, and fairly every five years. The objective is to elect members of the PRC, RRC, the President and Vice President, and the RPRC, which a national, permanent, and independent election commission holds. Election participants are divided into two categories: political parties for the election of members of the PRC and RPRC; and individuals for the election of members of the RRC. Article 18 of the Constitution of the Republic of Indonesia of 1945, which mandates the democratic election of regional government leaders, governs the election of regional government leaders.

The most recent simultaneous general elections in Indonesia were held in 2019. They were regulated by Law No. 7 of 2017 on General Elections as last amended by Government Regulation in Lieu of Law No. 1 of 2022 on Amendments to Law No. 7 of 2017 on General Elections. The conduct of simultaneous elections attempts to create a more efficient and cost-effective electoral process that can reduce societal conflicts. In addition, the public is encouraged to use their voting rights wisely to participate in

maintaining the check and balance system in Indonesian democracy.<sup>60</sup> This law is a consolidation and harmonisation of three previous laws on general elections, namely: Law No. 42 of 2008 on Presidential and Vice-Presidential Elections; Law No. 15 of 2011 on the Administration of General Elections; and Law No. 8 of 2012 on General Elections for Members of the PRC, the RRC, and the RPRC. As a result of this consolidation and harmonisation, subsequent general elections have become more efficient compared to previous ones, which required higher costs. The possibility of social conflict due to prolonged political contests has also been reduced.<sup>61</sup> This law regulates that Indonesian citizens can directly elect their president, vice president, and representatives to supervise the government, express their aspirations, make laws, and formulate the state budget through general elections. It includes general provisions of general elections, general election administrators, implementation of general elections, what constitutes general election violations, disputes over the general election process, results of general elections, what constitutes a general election crime, and other provisions and transitional provisions.

Further regulations on the selection of regional heads as stipulated in Article 18 of the 1945 Constitution of the Republic of Indonesia are regulated in Law No. 1 of 2015 on the Determination of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors, which has been lastly amended by Law No. 6 of 2020 on the Determination of Government Regulation in Lieu of Law No. 2 of 2020 on the Third Amendment to Law No. 1 of 2015 on the Determination of Government Regulation in Lieu of Law No. 1 of 2014 on the Election of Governors, Regents, and Mayors as Law. The previous regulation governing the selection of

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<sup>60</sup> Mahkamah Konstitusi Republik Indonesia, "Pemilu Secara Serentak Bertujuan Memperkuat Sistem Presidensial | Mahkamah Konstitusi Republik Indonesia, <https://www.mkri.id/index.php?page=web.Berita&id=18772>, accessed 04 November 2022.

<sup>61</sup> Evi Novida Ginting Manik, *Penguatan Kelembagaan Menuju KPU yang Lebih Profesional* in Aditya Perdana, 2019, *Perihal Para Penyelenggara Pemilu*, Badan Pengawas Pemilihan Umum, Jakarta, p. 46.

regional heads, Law No. 22 of 2014 on the Election of Governors, Regents, and Mayors, still does not reflect democratic principles, as the selection of regional heads is still carried out indirectly through the RPRC. This regulation ensures that people's sovereignty is fulfilled in the implementation of the selection of regional heads. Matters regulated in this regulation include: general provisions of the selection of regional heads; principles and principles of implementing the selection of regional heads; requirements that must be fulfilled by candidates for regional heads; organizers of the selection of regional heads; procedures for the registration of prospective candidates for regional heads; public testing of candidates for regional heads; procedures for the registration of candidates for regional heads; procedures for verifying support for candidates and examining the completeness of the requirements of candidates for regional heads; the determination of candidates for regional heads; the right to vote and the preparation of voter lists; the implementation of the campaign by candidates for regional heads; equipment for the selection of regional heads; procedures for voting; procedures for vote counting; procedures for revoting, recounting votes, and recapitulating the results of vote counting; procedures for continued and supplementary selection of regional heads; election monitors; public participation in the implementation of the selection; handling of reports of election violations; violations of ethics codes, administrative violations, settlement of disputes, election crimes, state administrative disputes, and disputes over election results; confirmation of the appointment and inauguration of elected regional heads; funding for the selection of regional heads; filling positions of deputy governors, deputy regents, and deputy mayors; criminal provisions for violations in the implementation of the selection of regional heads; and other provisions and transitional provisions.

Article 1 of Law No. 7 of 2017 on General Elections stipulates that the conduct of general elections in Indonesia is carried out by the election organising institution,

which is composed of the General Elections Commission (GEC), a national, permanent, and independent institution in conducting general elections; the Election Supervisory Board (ESB), an institution that oversees the conduct of general elections; and the Electoral Organizer Honorary Council (EOHC), an institution that is responsible for handling violations of the code of ethics of election organisers. This concept differs from the general election organising institution concept in most democracies, which entrusts one institution with all the tasks and functions of conducting general elections.

As the first state agency formed through Law No. 3 of 1999 on General Elections, GEC held several general elections after the reform. Article 8, paragraph (2) of Law No. 3 of 1999 on General Elections asserts that GEC is a free and independent state agency, and the form of its institutional structure follows a mixed model. However, the influences from external parties cannot be separated from it, as seen from the membership of the GEC, which consists of 48 representatives of political parties participating in the elections and five representatives of the government. This mixed model represents a fundamental change for the general election organising agency in Indonesia, where before the reform era, the election organising agency was entirely under the control of the government.<sup>62</sup> At that time, the supervision function of the implementation of general elections was assigned to a Supervisory Committee established by the Chief Justice of the Supreme Court of the Republic of Indonesia, the Chief Justice of the High Court, and the Chief Justice of the District Court, according

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<sup>62</sup> Komisi Pemilihan Umum Republik Indonesia, "Pemilu 1999", <https://www.kpu.go.id/page/read/11/pemilu-1999>, accessed 23 October 2022. *See also*, Tatang Sudrajat, "Analisis Komparatif Pengaturan Dimensi Organisasi Komisi Pemilihan Umum sebagai Penyelenggara Pemilu di Era Pemerintahan Pasca Orde Baru", *Jurnal Ilmu Administrasi*, Vol. 14, No. 1, 2017, p. 51-68. *See also*, Helena Catt, *et.al.*, 2014, *Electoral Management Design*, Revised Edition, International Institute for Democracy and Electoral Assistance, Stockholm, p. 6-10.

to their respective levels of implementation of general elections. This committee consisted of judges, elements of higher education, and figures in society.<sup>63</sup>

The transition towards an independent and autonomous institution, free from external interference, began with the passing of Law No. 12 of 2003 on the General Elections of Members of the PRC, RRC, and RPRC.<sup>64</sup> According to this regulation, the President sought the PRC's approval after selecting the GEC members through an open process. However, this independence needed to be met with professionalism in general elections, particularly during the 2004 elections. The institution was criticised for failing to concentrate on its primary tasks, such as promoting general elections and carrying out the election stages. Instead, the institution was criticised for prioritising the procurement of election logistics. Its performance was considered the same as that of the 1999 general elections.<sup>65</sup> The Election Supervisory Committee, previously established by the Supreme Court Chief Justice's Decree, is now formed directly by the GEC, is ad hoc, and is directly accountable to the GEC. Its members are police, prosecutors, academics, society leaders, and journalists. In addition, the GEC has established an ad hoc Electoral Commission Honorary Council tasked with examining complaints about code of ethics violations for election organisers. Its members are drawn from within the GEC.<sup>66</sup>

Law No. 22 of 2007 on the Organizer of General Elections further strengthens the election organisers' independence by recruiting GEC members at every level, from central to regional, in an open manner. The Election Supervisory Committee becomes a permanent body called the Election Supervisory Board, selected by the GEC and approved by the RRC. Its members consist of non-governmental and non-partisan

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<sup>63</sup> Aditya Perdana, *et.al.*, 2019, *Tata Kelola Pemilu di Indonesia*, Komisi Pemilihan Umum Republik Indonesia, Jakarta, p. 119.

<sup>64</sup> Komisi Pemilihan Umum Republik Indonesia, "Pemilu 2004", <https://www.kpu.go.id/page/read/1114/pemilu-2004>, accessed 24 October 2022.

<sup>65</sup> Heru Cahyono, "Pelanggaran Pemilu Legislatif 2004", *Jurnal Penelitian Politik*, Vol. 1, No. 1, 2004, p. 9-27.

<sup>66</sup> Aditya Perdana, *et al.*, *Loc. Cit.*

professionals. The Honor Council of the General Election Commission, which previously had members from the GEC's internal team, now includes external parties but remains ad hoc.<sup>67</sup>

The current form of the electoral management body in Indonesia, consisting of three organising bodies, namely GEC, ESB, and the Electoral Ethics Council, was mandated by Law No. 15 of 2011 on the Implementation of General Elections and further reinforced by Law No. 7 of 2017 on General Elections.<sup>68</sup> The Electoral Ethics Council of the Election Commission, which previously had an ad hoc nature, has become a permanent institution named the Electoral Organizer Honorary Council, whose members come from GEC, ESB, government elements, and legislative elements. The concept of the relationship between the three electoral management bodies in Indonesia constructs GEC as the primary election management body. The reasons why GEC is the primary election organiser are due to historical and empirical factors. Initially, the supervisory and enforcement functions of the code of ethics were attached to the GEC. The GEC plans, implements, and is accountable for the election process, including registration, updating, and determining the voter list; registration and determination of participants; voting and vote counting; recapitulation; election results; and the determination of elected candidates. It does not necessarily make GEC more important than the other two electoral management bodies; ESB and EOHC are more "important" because they can make final and binding decisions on GEC.<sup>69</sup>

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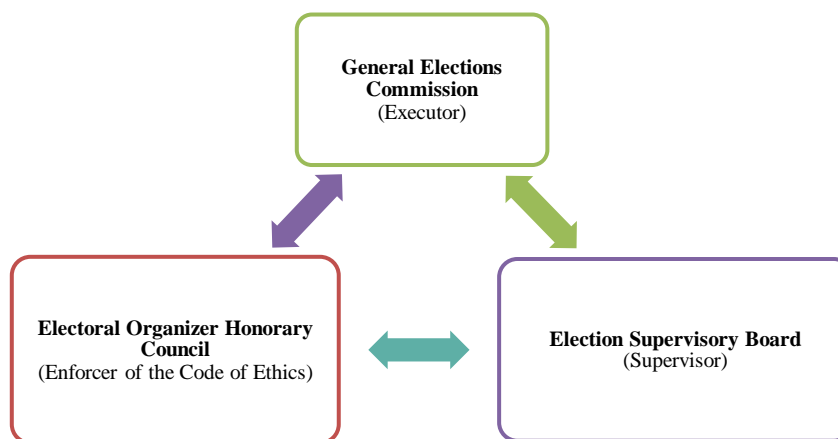
<sup>67</sup> Komisi Pemilihan Umum Republik Indonesia, "Pemilu 2009", <https://www.kpu.go.id/page/read/1115/pemilu-2009>, accessed 25 October 2022.

<sup>68</sup> Komisi Pemilihan Umum Republik Indonesia, "Pemilu 2014", <https://www.kpu.go.id/page/read/1116/pemilu-2014>, accessed 25 October 2022. *See also*, Komisi Pemilihan Umum Republik Indonesia, "Pemilu 2019", <https://www.kpu.go.id/page/read/1113/pemilu-2019>, accessed 25 October 2022. *See also*, Dewan Kehormatan Penyelenggara Pemilihan Umum Republik Indonesia, "Sejarah DKPP", <https://dkpp.go.id/sejarah-dkpp/>, accessed 25 October 2022.

<sup>69</sup> Aditya Perdana, *et.al.*, *Op.Cit.*, p. 179.

**Figure 1.**

**The Relationship between Electoral Management Bodies in Indonesia**



**Source: Aditya Perdana, *et.al.*, Tata Kelola Pemilu di Indonesia<sup>70</sup>**

In addition to their reciprocal relationship, these three institutions are working together to improve the quality of the general elections. Institutional strengthening has been implemented to create professional organisers, such as Task Orientation for newly appointed GEC commissioners. This activity involves academics, activists, and practitioners in democracy and general elections as facilitators. Additionally, advanced education has been provided for all GEC human resources through cooperation with several universities since 2015.<sup>71</sup>

Democratic general elections began to develop in Indonesia after the 1998 reform movement overthrew Soeharto after he had served as president for 30 years.<sup>72</sup> After the reform movement, President Habibie takes a step to ensure the neutrality of general elections by issuing a Presidential Decree to ban Civil Servants from being active as partisans of any political party. Civil Servants were no longer "required" to

<sup>70</sup> *Ibid*, p. 180.

<sup>71</sup> Syarifuddin Jurdi, 2019, *Komisi Pemilihan Umum (KPU) dan Penguatan Institusi: Dari Kooptasi Regim, Kemandirian, dan Penguatan Etik Penyelenggara*, Komisi Pemilihan Umum Republik Indonesia, p. 11-12.

<sup>72</sup> S. Dian Andryanto, "23 Tahun Reformasi: Rangkaian Peristiwa Mei 1998 Berujung Soeharto Lengser", <https://nasional.tempo.co/read/1461830/23-tahun-reformasi-rangkaian-peristiwa-mei-1998-berujung-soeharto-lengser>, accessed 28 October 2022.



support the *Golongan Karya*, which before the reform was a political machine for the ruling party so that civil servants could freely determine their vote in the general election.<sup>73</sup> The implementation of the 1999 general election generally went well and received significant attention from the Indonesian and international communities. However, there were some rejections from some political parties participating in the general election against the election results. Rejections against vote counting were carried out by 27 political parties participating in the general election because the implementation of the general election was not considered to follow democratic principles.<sup>74</sup> Responding to the situation, President Habibie announced the vote counting results on 26 July 1999 after receiving a recommendation from the General Election Supervisory Committee that the general election had been conducted legally.<sup>75</sup>

Law No. 12 of 2003 on General Elections for Members of the PRC, RRC, and RPRC serves as an example of how the electoral system in Indonesia has improved since the previous regulations, which still gave political parties control over the conduct of general elections. The most fundamental change is in the representation system, which previously used a proportional representation system with a closed list in the 1999 general elections, to a semi-open list proportional representation system.<sup>76</sup> The 2004 general election was the first-time citizens could directly elect their representatives in the PRC, RRC, and RPRC, as well as the President and Vice President. Despite the complexity of the election system, it still needs improvement to create a transparent and accountable system for the people. Some areas for improvement include the suboptimal semi-open proportional system due to the

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<sup>73</sup> Bacharuddin Jusuf Habibie, 2006, *Detik-Detik yang Menentukan: Jalan Panjang Indonesia Menuju Demokrasi*, THC Mandiri, Jakarta, p. 171.

<sup>74</sup> Komisi Pemilihan Umum Republik Indonesia, *Loc.Cit.*

<sup>75</sup> Bacharuddin Jusuf Habibie, *Op.Cit.*, p. 172-175.

<sup>76</sup> Aditya Perdana, *et.al.*, *Op.Cit.*, p. 80-81.

central role of political parties in implementing general elections and the perception that the conversion of votes into seats is unfair.<sup>77</sup> The central role of political parties in the 2004 general elections can be seen from the contestation system, where contests occur between political parties or candidates of different political parties.<sup>78</sup>

The further transformation of the electoral system in Indonesia can be seen in Law No. 10 of 2008 on General Elections for Members of the PRC, RRC, and RPRC, which is more detailed in terms of the division of electoral districts. Under this legislation, the PRC has explicitly formulated the division of electoral districts and the allocation of seats for the PRC general elections. This move has led to the perception that the PRC is too involved in what should be the GEC's domain.<sup>79</sup> Another change can be seen in the contestation system in the 2009 general elections, which used a pure open-list proportional representation system (contests occurred among candidates in the same political party) or the most-votes system.<sup>80</sup>

The 2009 legislative general election in Indonesia was more complex and complicated than in 2004 due to the large number of candidates from 38 political parties competing for seats in the PRC, RRC, and RPRC. There were 11.301 individual candidates from 38 political parties competing to win 560 seats in the PRC, 1.116 individual candidates competing for 128 seats in the RRC, and 278.851 individual candidates competing for seats in the RPRC in each electoral district. Additionally, the GEC faced technical problems in logistics distribution due to the number of polling stations reaching 528.217 stations with 700 million ballot papers. Misprinted ballot papers, insufficient ballot papers in some polling stations, and ballot papers sent to the wrong electoral districts were the problems encountered in the conduct of the general

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<sup>77</sup> Indra Pahlevi, "Dinamika Sistem Pemilu Masa Transisi di Indonesia", *Politica*, Vol. 5, No. 2, 2014, p. 111-135.

<sup>78</sup> Aditya Perdana, *et.al.*, *Loc.Cit.*, p. 79.

<sup>79</sup> *Ibid*, p. 15.

<sup>80</sup> *Ibid*, p. 79.

election in 2009.<sup>81</sup> The existing general election regulations also caused internal problems for the GEC, which was required to reduce two bureaus according to the demands of the law. This condition could only be resolved two months before the 2009 general election phase began. In addition, the new commissioners' minimal experience made it difficult for the GEC to meet deadlines and face the problems of the 2009 general election.<sup>82</sup>

The 2009 presidential and vice-presidential general elections had both successes and problems. The successes included freedom for political parties to express themselves, balanced media coverage, peaceful voting, and a well-run dispute-resolution process. However, a survey showed that many voters needed more information about the election process, and the low human resources caused the quality of the election implementation to be lower than in 2004 due to inadequate training.<sup>83</sup>

The General Election Commission (GEC) implemented a decentralised system to improve logistics in the 2014 general elections. However, due to misplaced ballots, 770 polling stations had to conduct re-voting. The Indonesian Corruption Watch (ICW) also recorded 313 cases of vote-buying during the 2014 legislative elections, a 100% increase from 2009. The Election Supervisory Board's (ESB) performance was scrutinised due to its weak prevention, monitoring, and prosecution of these vote-buying practices.<sup>84</sup>

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<sup>81</sup> Rizal Sukma, *Indonesia's 2009 Elections: Defective System, Resilient Democracy* in Edward Aspinall, *et.al.*, 2010, *Problems of Democratisation in Indonesia: Elections, Institutions, and Society*, ISEAS Publishing, Singapore, p. 53-74.

<sup>82</sup> Abdul Aziz, *Refleksi Pemilu Serentak 2019: Aspek Kelembagaan Penyelenggara Pemilu* in Eko Agus Wibisono, 2019, *Perihal Refleksi Pemilu Serentak 2019*, Badan Pengawas Pemilihan Umum, Jakarta, p. 94. See also, Adam Schmidt, *Indonesia's 2009 Elections: Performance Challenges and Negative Precedents* in Edward Aspinall, *et.al.*, 2010, *Problems of Democratisation in Indonesia: Elections, Institutions, and Society*, ISEAS Publishing, Singapore, p.108.

<sup>83</sup> *Ibid.*, p. 110-119.

<sup>84</sup> Arfianto Purbolaksono, "Catatan Penyelenggaraan Pemilu Legislatif 2014", *Update Indonesia*, May 2014, Vol. 8, No. 10, p. 2-5. See also, Ulla Fionna, *Vote-buying in Indonesia's 2014 Elections: The Other Side of the Coin* in Ulla Fionna, 2015, *Watching the Indonesian Elections 2014*, Institute of Southeast Asian Studies, Singapore, p. 94-102.

The last presidential and vice-presidential elections, held in 2019, were conducted peacefully, though their quality of implementation could have been better.<sup>85</sup> Despite its efficiency in allowing simultaneous elections for the President and Vice President, PRC, RRC, and RPRC members, the process was considered overly complicated, complex, and heavily burdensome for election organisers.<sup>86</sup> Long-standing polarisation issues in the regions, which have never been resolved, were elevated as national issues, leading to disinformation and rumours that ultimately resulted in post-election violence. Apart from polarization, the participants in the election also failed to demonstrate appropriate democratic behaviour. Losing parties tended to be dissatisfied with the democratic system.<sup>87</sup>

## 2. The Implementation of General Elections in the Philippines

The Philippines is the first independent democracy in Asia, having developed democratically since 1898 under American colonisation. In 1935, the Commonwealth of the Philippines was established, and its constitution, the 1973 Constitution of the Republic of the Philippines, was based on the bicameral democracy system of the United States. At this time, the elites and educated were the most privileged to benefit from implementing democracy due to the uneven distribution of educational levels.<sup>88</sup> The democracy introduced by the United States was not intended to provide freedom but to make the Filipino people comfortable with the new restrictions imposed by

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<sup>85</sup> R. Siti Zuhro, "Demokrasi dan Pemilu Presiden 2019", *Jurnal Penelitian Politik*, Vol. 16, No. 1, 2019, p. 69-81.

<sup>86</sup> Ricky Febriansyah, *et.al.*, "Analisis Beban Kerja Kelompok Penyelenggara Pemungutan Suara (KPPS) Menggunakan Metode FTE (Full Time Equivalent) pada Pemilihan Umum Serentak Tahun 2019 di Kabupaten Bangka Tengah", *Jurnal Tata Kelola Pemilu Indonesia*, Vol. 1, No. 1, 2019, p. 42-60. *See also*, Syamsuddin Haris, *Loc.Cit.* *See also*, Moch Nurhasim, "Evaluasi Pemilu Serentak 2019: Distorsi Asumsi Akademik dan Praktik", *Jurnal Majelis*, Vol. 7, 2019, p. 61-80.

<sup>87</sup> Quinton Temby, "Disinformation, Violence, and Anti-Chinese Sentiment in Indonesia's 2019 Elections", *ISEAS Perspective*, Vol. 67, 2019, p. 1-8. *See also*, Burhanuddin Muhtadi, *Electoral Losers, Democratic Support, and Authoritarian Nostalgia* in Thomas Power, *et.al.*, 2020, *Democracy in Indonesia: From Stagnation to Regression?*, ISEAS Publishing, Singapore, p. 141-165.

<sup>88</sup> Viberto Selochan, *The Military and the Fragile Democracy of the Philippines* in Ronald James May, *et al.*, 2004, *The Military and Democracy in Asia and the Pacific*, Second ed. ANU E Press, Canberra, p. 59-60.

certain elite groups, resulting in an autocratic system despite having a democratic form of government.<sup>89</sup>

After the United States granted independence to the Philippines in 1946, the Philippine political system still followed the United States, where the president held office for four years for one term and could only hold the position for two consecutive terms. The implementation of democracy in the early days of Philippine independence was threatened by the communist group Hukbalahap. This group fought against the Japanese occupation in the past. However, it opposed the newly established Philippine government due to a lack of faith in the democratic process, which was believed to only benefit elite groups.<sup>90</sup> The threat from Hukbalahap could be eliminated after Ramon Magsaysay became the Secretary of Defense of the Philippines, using military force and assistance from the United States. Magsaysay also used military force to ensure that the general election held in 1951 could be conducted fairly. The result showed that implementing the general election was one of the fairest in the history of Philippine elections.<sup>91</sup>

The most recent general election in 2022 resulted from implementing The 1987 Constitution of the Republic of the Philippines. The Philippines recognises democracy as a form of government, stipulated in Article II Section I, declaring the country a democratic and republican state. Sovereignty lies with the people, and all government authority emanates from them. This principle is further reinforced in Article V on the Right of Suffrage, Article VI on the Legislative Department, Article VII on the Executive Department, and Article IX on the Constitutional Commissions. The Philippines has several regulations to ensure the entire process of general elections is

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<sup>89</sup> Noam Chomsky, 1991, *Deterring Democracy*, South End Press, London, p. 237.

<sup>90</sup> Walter C. Ladwig, *When the Police are the Problem: The Philippine Constabulary and the Hukbalahap Rebellion* in C. Christine Fair, et al., 2014, *Policing Insurgencies: Cops as Counterinsurgents*, Oxford University Press, Oxford, p. 19-45.

<sup>91</sup> James R. Prescott, "Ramón Magsaysay—the Myth and the Man", *The Journal of American-East Asian Relations*, Vol. 23, No. 1, 2016, p. 7-32.

conducted smoothly.<sup>92</sup> Since 1985, the conduct of general elections has been based on the Omnibus Election Code *Batas Pambansa Bilang* 881, amended once in 2007 through Republic Act No. 9369. In addition to these regulations, several other regulations govern the conduct of general elections in the Philippines, such as (a) Republic Act No. 7056 and Republic Act No. 7166, which regulate the simultaneous conduct of general elections, (b) Republic Act No. 8046, Republic Act No. 8746, Republic Act No. 8753, Republic Act No. 8953, Republic Act No. 9012, and Republic Act No. 9333 which regulate the conduct of general elections in the Muslim Mindanao Autonomous Region, (c) Republic Act No. 8189 which regulates voter registration, (d) Republic Act No. 9006 on the conduct of free, orderly, honest, peaceful, and credible general elections through fair practices, (e) Republic Act No. 9189 which regulates general elections for voters abroad, and (f) COMELEC Rules of Procedure which governs the conduct of general election officials.

Article IX-C of the 1987 Constitution of the Republic of the Philippines is embodied by the Philippine Commission on Elections (COMELEC). It is a permanent and independent electoral management body that manages its budget and is not directly responsible for any ministry or department of the state.<sup>93</sup> Before COMELEC was established, elections were entrusted to the Executive Bureau, a national body under the Department of the Interior's jurisdiction. Subsequently, the Department of the Interior resumed this responsibility after the Executive Bureau was abolished. A constitutional amendment was enacted in 1940 to create COMELEC to avoid potential conflicts of interest between the Secretary of the Department of the Interior and the President in elections. This amendment was ratified through the 1940 Plebiscite,

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<sup>92</sup> Senate Electoral Tribunal of Republic of the Philippines, "Election Laws | Senate Electoral Tribunal, <https://www.set.gov.ph/resources/election-law/>, accessed 12 December 2022.

<sup>93</sup> Helena Catt, *et.al.*, *Loc.Cit.*

which indicated that 78% of voters approved COMELEC's establishment.<sup>94</sup> The 1973 and 1987 Constitutions of the Republic of the Philippines further strengthen COMELEC's authority and membership.<sup>95</sup>

According to the First Amendment to the 1973 Constitution of the Republic of the Philippines, COMELEC, composed of a chairperson and two members, is exclusively responsible for upholding and enforcing all elections-related regulations and carrying out other functions mandated by law. COMELEC may decide all administrative issues related to polling stations, the appointment of election supervisors, and other election officials, except for issues related to suffrage. All policies, orders, or decisions issued by COMELEC will be subject to review by the Supreme Court of the Republic of the Philippines. Additionally, to ensure that elections are conducted freely, orderly, and with integrity, all law enforcement agencies and government institutions can act as representatives of COMELEC upon request. Concerning the election of members of the Senate and People's Representative Council, the *Electoral Tribunal*, consisting of judges from the Supreme Court and Senators or Members of the People's Representative Council, is the sole authority in determining the outcome of election disputes.

The 1973 Constitution of the Republic of the Philippines explicitly strengthened the authority and functions of COMELEC as the electoral management body by adding powers and functions to register and accredit political parties participating in elections; recommend to the National Assembly measures to reduce the cost of elections; recommend to the National Assembly matters that may disrupt the conduct of free, orderly, and honest elections; and serve as the sole arbiter in contests relating to the elections of members of the National Assembly, provincial officials, and city

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<sup>94</sup> Jean Arboleda, *et.al.*, 2015, *Philippine Electoral Almanac: Revised and Expanded Edition*, Presidential Communications Development and Strategic Planning Office, San Miguel, Manila, p. 61.

<sup>95</sup> COMELEC Information Technology Department, "Historical Background", <https://comelec.gov.ph/?r=AboutCOMELEC/HistoricalBackground>, accessed 15 December 2022.

officials. Although any policy, regulation, or decision issued by COMELEC may still be brought before the Supreme Court for review. Members of COMELEC, previously appointed by the President, are now appointed by the Prime Minister and have shorter terms of office of seven years.

COMELEC has had exclusive jurisdiction over all matters related to electoral contests at the local level since the enactment of the 1987 Constitution of the Republic of the Philippines, and the Supreme Court is the sole authority in all matters relating to the election of the president and vice president. It may also issue its own rules regarding the conduct of the election. Any policy, regulation, or decision issued by COMELEC related to local elections is now final and unappealable. The authority to rule on all matters relating to the election of members of the Senate and People's Representative Council has been returned to the Electoral Tribunal, and both the Senate and People's Representative Council have their own Electoral Tribunal.

COMELEC independently supervises the conduct of elections by establishing Electoral Boards (EB), which are formed at least thirty days before the preparation of the list of voters. These boards comprise a chairperson, preferably a civil servant teacher, and two members representing accredited political parties. EB have the function and authority to conduct voting and vote counting, act as representatives of COMELEC to oversee and control the election process and perform other functions mandated by COMELEC.

Aside from serving as a means to elect public officials, elections in the Philippines are also utilised to determine the direction of state policy through plebiscites. Plebiscites allow all citizens to express their preference for enacting a law.<sup>96</sup> The first plebiscite held in the Philippines was on 14 May 1935 to ratify the 1935 Constitution of the Republic of the Philippines, with 96.43% of voters declaring their approval of

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<sup>96</sup> The Law Dictionary, "PLEBISCITE Definition & Meaning - Black's Law Dictionary", <https://thelawdictionary.org/plebiscite/>, accessed 24 October 2022.



the law's ratification.<sup>97</sup> The same election was likewise conducted to establish The 1973 and 1987 Constitutions of the Republic of the Philippines.<sup>98</sup>

Ferdinand Marcos was elected president in 1965 and declared martial law in 1972 with the assistance of the military. This period of martial law lasted for nine years, until 1981, and had deleterious effects on Philippine democracy. During this period, the president held full power over the legislature, political parties were considered illegal, and the implementation of human and political rights was not guaranteed.<sup>99</sup> The martial law conditions announced on 23 September 1972 effectively halted all political activities and parties.<sup>100</sup> Under the guise of civil unrest marked by several bombings in the capital and the ambush of the then-Defense Minister, he issued Proclamation No. 1081 on the Implementation of Martial Law in the Philippines. After declaring martial law, he also used plebiscites to serve as president for over two consecutive terms.<sup>101</sup> A referendum was ordered to determine the ratification of The 1973 Constitution of the Republic of the Philippines. The minimum voting age was reduced to 15 years old, and the voting system was changed to a show of hands.<sup>102</sup> Its conduct was marred by intimidation from the police and military deployed at polling stations, the non-recording of votes from voters who expressed their disapproval of the new Constitution, and indications that local officials were given quotas for "yes" votes for the ratification of the new Constitution.<sup>103</sup> The results showed that 91% of the voters agreed to ratify The 1973 Constitution of the Republic of the Philippines, and 91% stated they did not want another plebiscite to ratify it.<sup>104</sup>

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<sup>97</sup> Jean Arboleda, *et.al.*, *Op.Cit.* p. 53.

<sup>98</sup> *Ibid*, p. 115-135.

<sup>99</sup> William H. Overholt, "The Rise and Fall of Ferdinand Marcos", *Asian Survey*, Vol. 26, No. 11, 1986, p. 1137-1163.

<sup>100</sup> Julio Cabral Teehankee, *Electoral Politics in the Philippines* in Aurel Croissant, *et.al.*, 2002, *Electoral Politics in Southeast and East Asia*, Friedrich Ebert Stiftung, Singapore, p. 159.

<sup>101</sup> Jean Arboleda, *et.al.*, *Op.Cit.*, p. 113. See also David G Timberman, 2015, *A Changeless Land: Continuity and Change in Philippine Politics*, Routledge, New York, p. 76.

<sup>102</sup> Jean Arboleda, *et.al.*, *Op.Cit.*, p. 115.

<sup>103</sup> David Wurfel, 1988, *Filipino Politics: Development and Decay*, Cornell University Press, Ithaca, p. 116.

<sup>104</sup> Jean Arboleda, *et.al.*, *Loc.Cit.*

Marcos portrayed martial law as a democratic instrument to maintain social order and as a democratic agent of change, which made him both an authoritarian leader and a democratic one.<sup>105</sup> To legitimise his efforts to stay in power through martial law, Marcos held plebiscites in 1975, 1976, and 1977. In 1975, 89% of voters approved Marcos's way of exercising his power; in 1976, 90% wanted martial law to continue; and in 1977, 89% wanted Marcos to continue serving as president.<sup>106</sup>

In 1986, the People Power Revolution marked a turning point in the evolution of democracy in the Philippines. It brought about significant changes to the Constitution of the Republic of the Philippines. The new Constitution, enacted on 11 February 1987, shared many similarities with the 1935 Constitution of the Republic of the Philippines. The most significant change was the military's prohibition from actively participating in government. The 1987 general elections under the new Constitution were more competitive than the last general election.<sup>107</sup> Although the peaceful four-day revolution was able to overthrow President Marcos' government, it was, in fact, a rebellion against President Marcos' rule and not a revolution against the Philippine political system.<sup>108</sup>

President Corazon Aquino was responsible for restoring democracy in the Philippines, guided by the principles of the 1986 interim Constitution. Her administration advocated for The 1987 Constitution of the Republic of the Philippines and established constitutional commissions. The 1987 general elections were held in a free and fair manner. However, human rights protection remained inadequate, decentralisation from the central government made little progress, and corruption and inefficiency in government were left unaddressed. President Aquino focused mainly

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<sup>105</sup> Gene Segarra Navera, "Metaphorizing Martial Law: Constitutional Authoritarianism in Marcos's Rhetoric (1972–1985)", *Philippine Studies: Historical and Ethnographic Viewpoints*, Vol. 66, No. 4, 2018, p. 417-452.

<sup>106</sup> Jean Arboleda, *et.al.*, *Loc.Cit.*

<sup>107</sup> Viberto Selochan, *Op.Cit.*, p. 67.

<sup>108</sup> David G. Timberman, *Op.Cit.*, p. 158. See also James Marshall Kirby, *Satisfaction and Dissatisfaction with Political Leaders in Indonesia, Korea, the Philippines, and Thailand* in Giovanna Maria Dora Dore, *et.al.*, 2014, *Incomplete Democracies in the Asia-Pacific: Evidence from Indonesia, Korea, The Philippines, and Thailand*, Palgrave Macmillan UK, London, p. 220-255.

on ensuring a smooth transition to democracy, sacrificing the potential for improving the quality of democracy.<sup>109</sup> The development of democracy in the Philippines faced interventions in the form of coups, especially during the presidencies of Corazon Aquino, Joseph Estrada, and Gloria Macapagal-Arroyo. Only the administrations of Presidents Fidel Ramos and Benigno Aquino III were considered successful by the Filipino people.<sup>110</sup>

The first multi-party presidential election was held in 1992, following the presidency of Corazon Aquino, and was the first election held under the 1987 Constitution of the Republic of the Philippines. It was also the year Fidel Ramos became president, winning the election with only 23% of the vote.<sup>111</sup> Despite the relatively small number of votes for President Ramos, his administration remained stable due to solid support from the elite and a fair and free selection process for all government positions.<sup>112</sup> Another reason the 1992 election process ran smoothly was because of a thorough clean-up process within COMELEC, the organisation responsible for conducting the elections, which led to high levels of trust in the legitimacy of the electoral process. Although some violence occurred leading up to the election, the military showed no direct intervention in the electoral process.<sup>113</sup>

Republic Act No. 7166 on the Synchronization of National and Local Elections and Electoral Reforms, passed on 26 November 1991, stated that the 1992 elections would be held simultaneously to elect the President, Vice President, Senators,

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<sup>109</sup> David G. Timberman, *Op.Cit.*, p. 200-244. See also Aries A. Arugay, *Fall from Grace, Descent from Power?: Civil Society after Philippine Democracy's Lost Decade* in Imelda Deinla, *et.al.*, 2019, *From Aquino II to Duterte (2010-2018): Change, Continuity, and Rupture*, ISEAS Publishing, Singapore, p. 285-307.

<sup>110</sup> Karl D. Jackson, *The Philippines: Who Votes, Who Participates, and Why?* in Giovanna Maria Dora Dore, *et.al.*, 2014, *Incomplete Democracies in the Asia-Pacific: Evidence from Indonesia, Korea, The Philippines, and Thailand*, Palgrave Macmillan UK, London, p. 186-219.

<sup>111</sup> Jean Arboleda, *et.al.*, *Op.Cit.*, p. 140-144.

<sup>112</sup> Mark R. Thompson, *Op.Cit.*, p. 47.

<sup>113</sup> James Putzel, "Democratization and Clan Politics: The 1992 Philippine Elections", *South East Asia Research*, Vol. 3, No. 1, 1995, p. 18-45.

Members of the People's Representative Council, and all local officials.<sup>114</sup> This new experience for Filipinos was quite challenging, as the average voter had to write down the names of dozens of candidates competing on the ballot. This difficulty also led to different interpretations of ballots, as voters had to write the name of their chosen candidate. Several instances of fraud were also discovered, but not on a sufficient scale to have altered the outcome.<sup>115</sup> Republic Act No. 8046 was enacted to grant COMELEC permission to conduct elections through computerised systems to improve the electoral process, especially the challenges related to the exercise of suffrage. The first computerised election was conducted in the Autonomous Region of Muslim Mindanao during the special election of 1996, which Nur Misuari and Guimid Matalam won.<sup>116</sup>

The utilisation of a computerised system in the presidential and vice presidential elections of 1998 was based on Republic Act No. 8436 on Granting Authority to COMELEC to Conduct National and Local Elections in 1998 through the Use of an Automated Election System, which resulted in the election of Joseph Estrada as the President and Gloria Macapagal Arroyo as the Vice President.<sup>117</sup> Arroyo later became president after the Second People Power Revolution in 2001, which ousted the Estrada administration over allegations of corruption. Fraud marred the 2004 presidential and vice-presidential elections, in which Gloria Macapagal Arroyo won as president and Noli de Castro as vice president, causing a legitimacy crisis for the Arroyo administration and several failed coup attempts.<sup>118</sup>

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<sup>114</sup> Senate Electoral Tribunal of Republic of the Philippines, "Republic Act No. 7166 | Senate Electoral Tribunal", <https://www.set.gov.ph/resources/election-law/republic-act-no-7166/>, accessed 05 October 2023.

<sup>115</sup> James Putzel, *Loc.Cit.*

<sup>116</sup> Senate Electoral Tribunal of Republic of the Philippines, "Republic Act No. 8046 | Senate Electoral Tribunal", <https://www.set.gov.ph/resources/election-law/republic-act-no-8046/>, accessed 05 November 2023. *See also* Badrudin K. Abdul, "The Political Leadership of the Autonomous Region in Muslim Mindanao: Its Socio-Economic Imperatives and Challenges", *Proceedings of the International Conference on Responsive Education & Socio-Economic Transformation (ICRESET) 2018*, Vol. 1, No. 1, 2018, p. 86-97.

<sup>117</sup> Jean Arboleda, *et.al.*, *Op.Cit.*, p. 147-149.

<sup>118</sup> *Ibid*, p. 153-155. *See also* Julio Cabral Teehankee, "Weak State, Strong Presidents: Situating the Duterte Presidency in Philippine Political Time", *Journal of Developing Societies*, Vol. 32, No. 3, 2016, p. 293-321.

The 2010 presidential and vice-presidential elections, won by Benigno Aquino and Jejomar Binay, respectively, were well-run. Benigno Aquino obtained 42.08% of the votes in the presidential election, while Jejomar Binay obtained 41.7% in the vice-presidential election.<sup>119</sup> The 1987 Constitution of the Republic of the Philippines states that all elected positions must be chosen by direct election through the plurality vote system (the winner is the one who gets the most votes, even if not a majority). According to the constitution, the president and vice president are elected separately, not as a pair. The National Citizens' Movement for Free Elections (NAMFREL) stated that the computerised voting system of 2010 still needed improvement and review. It can help make the vote-counting process more efficient and accurate, but it cannot track and audit the problems that arise. The transparency and credibility of the computerised system, particularly in preserving the confidentiality of electronic data in the general election, still need to be improved. Vote buying, conducted before and during election day, cannot be directly attributed to the technology used in the election, as the fraud system in the election will always follow the development of the election administration system itself.<sup>120</sup>

The 2016 general election in the Philippines marked a significant moment in the democratic process, with the highest voter turnout since 1986. It saw improvements such as reduced time to collect and tally votes, decreased violence, improved reliability of the computerised voting system, and voter education through presidential and vice-presidential debates. However, the COMELEC issued new regulations within days, creating uncertainty among electoral stakeholders about which rules and policies were

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<sup>119</sup> Jean Arboleda, *et.al.*, *Op.Cit.*, p. 159-161.

<sup>120</sup> National Citizens' Movement for Free Elections, 2010, *Namfrel's 2010 Presidential & National Election Report*, National Citizens' Movement for Free Elections, Mandaluyong, Philippines, p. 1-7. *See also* Masataka Kimura, "Information and Communication Technology and Election Administration in the Philippines: An Assessment of the Nationwide Automation of the 2010 and 2013 Synchronized Elections", *Philippine Political Science Journal*, Vol. 36, No. 1, 2015, p. 54-72.

in effect. Conflicting regulations on campaign financing created loopholes for candidates to interpret the rules according to their interests.<sup>121</sup>

The year 2022 brought a surprising turn of events, with Ferdinand "Bongbong" Romualdez Marcos, Jr., son of former president Ferdinand Marcos, elected president of the Philippines.<sup>122</sup> More registered voters participated in the election than in the 2016 presidential and vice presidential elections, with 65.831.806 registered voters participating.<sup>123</sup> The campaign proceeded smoothly, although some violations were reported in certain areas, such as banning some candidates from campaigning in a particular locality by local officials or supporters of opposing candidates. Despite the efficient distribution of ballot counting machines to polling stations, there needed to be a transparent distribution schedule, making monitoring the distribution easier.<sup>124</sup> The quality and efficiency of the ballot counting machines used in the 2022 election were also a concern, as most machines were over five years old.<sup>125</sup>

Vote-buying practices and discrepancies between reported and actual expenses characterised the 2022 general election. There were no irregularities in the vote counting and tabulation processes. However, the credibility of the election results was undermined by long-standing issues related to justice and freedom in the election process, such as vote-buying practices, a lack of transparency in the election

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<sup>121</sup> National Citizens' Movement for Free Elections, 2016, *Namfrel Assessment of the May 9, 2016 Elections*, National Citizens' Movement for Free Elections, Mandaluyong, Philippines, p. 1. *See also* The Carter Center, 2016, *Limited Election Observation Mission to the Philippines: June 2016 Statement*, The Carter Center, Philippines, p. 4. *See also* Karol Ilagan, *et.al.*, *Covering Campaign Finance: The Philippine Experience* in Ratna Ariyanti, *et.al.*, 2021, *Media Reporting of Elections in Asia: Issues, Challenges, and Lessons*, The Asian Network for Free Elections, Bangkok, Thailand, p. 168-169.

<sup>122</sup> Dean Dulay, *et.al.*, "Continuity, History, and Identity: Why Bongbong Marcos Won the 2022 Philippine Presidential Election", *Pacific Affairs*, Vol. 96, No. 1, 2023, p. 85-104.

<sup>123</sup> COMELEC Information Technology Department, "2022 National and Local Elections Statistics", <https://comelec.gov.ph/?r=2022NLE/Statistics>, accessed 22 December 2022.

<sup>124</sup> National Citizens' Movement for Free Elections, 2022, *NAMFREL 2022 National and Local Elections Report*, National Citizens' Movement for Free Elections, Philippines, p. 31-32.

<sup>125</sup> Sara Naseem, *et.al.*, 2022, *2022 Philippine National and Local Elections: A Vibrant Democracy amid Systemic Challenges*, The Asian Network for Free Elections, Bangkok, Thailand, p. 51.

administration, unclear regulations on campaign financing, and inadequate information about the conduct of the general election.<sup>126</sup>

### 3. Comparison of the General Elections Implementation in Both Countries

The current political system in Indonesia and the Philippines is a multipartite presidential democracy in which the head of government is led by a president elected through a general election. The candidates are from various political parties.<sup>127</sup> Both nations have had leaders who have used the democratic process to legitimise their positions of authority. Ferdinand Marcos, president of the Philippines for twenty years, from 1965 to 1986, exploited the democratic process by implementing plebiscites and military power.<sup>128</sup> In Indonesia, the government directly controlled the electoral process by requiring Civil Servants always support the ruling party, enabling Soeharto to remain in power for about thirty years until 1998.<sup>129</sup>

The design of the general election system in both countries, especially in the presidential and vice-presidential elections, uses a plurality/majority system but with different variants. Indonesia uses a majority election system (Two-Rounds System), where the second round of the election will be held if no candidate obtains an absolute majority of votes (50% plus one). In contrast, the Philippines uses a plurality voting system (First Past The Post), where the winning candidate is the one who gets the most votes, although not a majority.<sup>130</sup>

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<sup>126</sup> *Ibid*, p. 30-34. See also International Coalition for Human Rights in the Philippines, 2022, *Final Report of the Philippine Elections 2022*, International Coalition for Human Rights in the Philippines, Philippines, p. 18-21. See also National Citizens' Movement for Free Elections, *Op.Cit.*, p. 69-70, 72.

<sup>127</sup> Avery D. H. Poole, 2019, *Democracy, Rights and Rhetoric in Southeast Asia*, Springer International Publishing, Cham, p. 23.

<sup>128</sup> David Wurfel, *Op.Cit.*, p. 114-122.

<sup>129</sup> Hermawan Sulisty, *Electoral Politics in Indonesia: A Hard Way to Democracy* in Aurel Croissant, *et al.*, 2002, *Electoral Politics in Southeast and East Asia*, Friedrich Ebert Stiftung, Singapore, p. 88. See also Bacharuddin Jusuf Habibie, *Op.Cit.*, p. 170-171.

<sup>130</sup> Andrew Reynolds, *et.al.*, 2016, *Desain Sistem Pemilu: Buku Panduan Baru International IDEA*, Perkumpulan untuk Pemilu dan Demokrasi, Jakarta, p. 144-146.

The current constitutions of both countries clearly state that public offices (president, vice president, legislative, and regional heads) are democratically elected through general elections. The implementation of general elections in both countries has been carried out simultaneously to elect the president, vice president, legislative members, and regional heads. However, at the beginning of its implementation, there were many challenges due to its more complicated process. The Philippines was the first to implement a policy of simultaneous general elections in 1992, based on Republic Act No. 7166. Indonesia started implementing it in 2004 when general elections began to be carried out simultaneously to elect legislative members and gradually included electing the president, vice president, and legislative members in general elections after.<sup>131</sup>

Indonesia's constitution only briefly states that an electoral management body conducts the election and is further subject to relevant laws, in contrast to the Philippines, which explicitly mentions the electoral management bodies and their roles and functions. Similarly, the Philippine constitution explicitly states the voting date, and its schedule details are determined through COMELEC Resolution, while in contrast, Indonesia does not explicitly determine the voting date. GEC did it through GEC Regulation. Regarding the election management procedures, in 2017, Indonesia combined several regulations regarding the election into Law No. 7 of 2017 on the Election. The Philippines has done the same since 1985 through *Batas Pambansa Bilang 881* on the Omnibus Election Code of the Philippines.

Both COMELEC and GEC are the institutions that manage all the stages of the election in both countries, but they have different arrangements of duties and authorities. Generally, COMELEC has the authority to carry out, supervise, and handle election violations in the Philippines. However, specifically, the violations that

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<sup>131</sup> Komisi Pemilihan Umum Republik Indonesia, *Loc. Cit.*



COMELEC can handle are only at the local government level. Violations occurred at the presidential and vice-presidential elections, and legislative members had their respective tribunals. The tribunal for legislative members' election in the Philippines is somewhat independent because most of its members are legislative members, not judicial judges. Unlike Indonesia, GEC only has the duty and authority to conduct the election; the supervision and handling of election violations are entrusted to ESB, EOHC, and the Constitutional Court, each of which has different authorities. The three institutions' members are independent and not beholden to any parties with a stake in the election's administration. The difference in the election management bodies is also seen in the implementation of election supervision. Supervision of the implementation of the election in Indonesia is carried out by ESB and EOHC, which are permanent and separate institutions from GEC. In contrast, supervision of the implementation of the election in the Philippines is carried out by EB / Board of Election Inspectors, which COMELEC forms before preparing the voters list at each general election.

These electoral management bodies have also utilised digital systems in the electoral process. COMELEC began using digitalisation systems to count, record, store, send, and summarise ballots based on the mandate of Republic Act No. 8436. This system was first tested in the Autonomous Region of the Muslim Mindanao election in 1996. Meanwhile, GEC began implementing digitalisation systems in the 1999 elections, using the Integrated Hajj Communication System network to send ballot results data. In its development until 2019, digitalisation also covered the processes of political party verification, preparation, and updating of voter lists and information on vote counting.<sup>132</sup>

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<sup>132</sup> Aditya Perdana, *et.al.*, *Op.Cit.*, p. 259-273.

Indonesia has long been familiar with elections, dating back to the 1955 legislative and Constituent Assembly elections. However, the development of this democratic process experienced stagnation during the New Order until the reform era in 1998.<sup>133</sup> After the reform, Indonesian citizens' involvement in elections is still limited to electing the president, vice president, legislators, and regional heads. The most significant difference between the Philippines and Indonesia in the manifestation of democracy through elections is the use of plebiscites in the Philippines, which involve citizens more in the democratic process. Plebiscites, implemented in the Philippines since 1935, are used to determine various policies in the Philippines, such as ratifying, amending, or replacing the constitution; enacting new laws; creating new national institutions; and establishing new autonomous regions.

#### **D. Conclusion**

The concept of democracy centres around the power that originates from, by, for, and with the people. An ideal democratic state should involve its citizens as widely as possible in the administration of the state. One way of involving citizens in the democratic process is through elections, which are used to select key government officials. It is crucial to ensure that the conduct of elections adheres to democratic principles, as democratic elections can serve as a mechanism to maintain stability in the democratic system. The smooth transfer of power and the freedom of citizens to renew or revoke the mandate given to elected officials are crucial aspects of democratic elections.

The constitutions of the Philippines and Indonesia both recognise elections as a form of democratic expression through which citizens choose their president, vice president, legislators, and regional leaders. However, the two countries differ in their

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<sup>133</sup> *Ibid*, p. 75-76.

approaches to implementing and carrying out elections due to their unique historical and national contexts. In the past, the election process in both countries was used to perpetuate power. However, following the People Power Revolution in the Philippines in 1986 and the Reform Movement in Indonesia in 1998, both countries have improved their democratic processes by revising regulations and restructuring the institutional structure of electoral management bodies.

The Philippines has more extensive citizen participation in the democratic process by implementing plebiscites to determine the direction of state policies. This practice is absent in Indonesia's democratic process. In Indonesia, citizen participation in elections is limited to selecting the president, vice president, legislators, and regional heads. In addition to the greater level of citizen involvement in the democratic process in the Philippines, the country's use of digital technology in the voting, counting, and tabulation of votes is another valuable lesson for Indonesia. The use of digital technology has resulted in faster and more efficient implementation of the electoral process. The advantages of this digitalisation system can be applied to the Indonesian electoral process to alleviate the heavy workload experienced by electoral organisers during simultaneous general elections.

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