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Indonesia's Constitutional Provisions And Regulations
On General Election : Material for Discussion

By

Adijaya Yusuf
INDONESIA'S CONSTITUTIONAL PROVISIONS AND REGULATIONS ON GENERAL ELECTIONS

Material for Discussion
by

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INDONESIA'S CONSTITUTIONAL PROVISIONS AND
REGULATIONS ON GENERAL ELECTIONS

I. INTRODUCTION

In the unitary Republic of Indonesia, sovereignty is vested in the people and is exercised in full by the Majelis as has been laid down in the 1945 Constitution. Therefore, general elections are held to form deliberative institutions/people's representative bodies of the Republic, namely: the Majelis (MPR), the Dewan (DPR) and the Regional Representative Councils of Levels I and II (DPRD I and DPRD II).

The 1945 Constitution does not stipulate very clearly on the general elections. The general elections imply from the following:

1. Article 1 para 2 which stipulates that sovereignty is vested in the people and is exercised in full by the Majelis.

2. Article 7 which stipulates that the President and the Vice President's terms of office are five years.

3. Elucidation of Article 3 which stipulates that every five years the Majelis will review all the progress that have happened in the Republic. From point 2 and 3 above, it is developed the interpretation that the general elections should be conducted once in every five years.

4. Article 19 which stipulates that the composition of the Dewan shall be formed on the basis of a Law. This is interpreted that the Law will regulate the general elections through which the composition of the Dewan is formed.

The general elections are also seen as the implementation of the state ideology Pancasila, which is the supreme source of laws in Indonesia. In order to implement the principles of Pancasila, especially the basis of democracy led by the wisdom of deliberation/representation, people's deliberative/representative institutions are institutions which should propagate the inner feelings of the people. Therefore, the system of filling these institutions is by holding general elections.

The general elections are also held to exercise one of the basic rights of Indonesian nationals, namely the political rights, and to express the fact that the Republic of
Indonesia is a state based on law with the form of a Unitary State.

Since the Proclamation of Independence in 1945, there have been five general elections held in Indonesia: in 1955, 1971, 1977, 1982, 1987. The general elections were conducted by the President as the Mandatory of the Majelis.

II. THE LEGAL GROUNDS AND BASIS.

1. The grounds for the General Elections are:
   a. from the angle of ideals: Pancasila;
   b. from the constitutional angle: the 1945 Constitution.

2. The Legal Basis.
   a. The 1945 Constitution.
   d. Law No. 15 of 1969 on the Election of Members of Deliberative Institutions/People's Representative Bodies, as amended for the first time by Law No. 4 of 1975, for the second time by Law No. 2 of 1980 and for the third time by Law No. 1 of 1985.
   e. Law No. 16 of 1969 on the Composition and Status of the Majelis, the Dewan and the Regional Representative Councils, as amended for the first time by Law No. 2 of 1985.
   g. Government Regulation No. 36 of 1985 on Implementation of Law No. 16 of 1969 on the Composition and Status of the Majelis, the Dewan and the Regional Representative Councils, as amended by Law No. 5 of 1975 and Law No. 2 of 1985.
III. GENERAL ELECTION PRINCIPLES.

In conformity with Majelis Decree NO. III/MPR/1983 on the General Elections, General Elections of Members of Deliverative Institutions/People's Representative Bodies, which are conducted by the President/Mandatary of the Majelis, are based upon the electoral principles of being direct, universal, free and secret ("LUBER"), with a more effective role for the three organisations of socio-political forces in execution and supervision, from the National level down to that of the regions.

1. "Direct" means that every elector casts his vote directly, without any intermediary and without stages.

2. "Universal" means that basically all nationals who fulfil the qualifications have the right to elect and to be elected. Former members of banned organisations of the Indonesian Communist Party, inclusive of its mass organisations, or persons who were involved directly or indirectly in the "Contra Revolutionary Movement of the 30 th September Movement/Indonesian Communist Party" are not accorded the right of electing and being elected, except in cases where a person's right to vote in the general elections has been considered and accorded.

3. "Free" means that the voter's security is assured for casting his vote without any influence, pressure or coercion from anyone at all or by any means at all.

4. "Secret" means that the voters are assured by regulation that no one at all will learn by any means at all who they voted for.

IV. THE GENERAL ELECTIONS SYSTEM.

1. For the election of Members of the Dewan and of Regional Representative Councils of Levels I and II, a system of representation is used that is balanced with the registration system (electoral roll). Thus the size and strength of representation of organisations in the Dewan and Regional Representative Councils of Levels I and II is as far as possible proportional to the
support given them by the community of electors. In order to achieve that aim, an organisation, the names of whose candidates are entered in the Electoral Roll, will obtain the number of seats determined by calculation with the divisor for Election Distribution, which is a figure obtained by dividing the total number of seats available by the total number of votes cast in a given electorate.

2. The system of the List of Candidates, similarly the General Elections system itself, depicts the recognition given for the system of participation by organisations in state affairs.

3. Every Region of Level-II Local Government obtains at least one representative, as determined by a system of balanced representation.

4. The General elections are carried out by the casting of votes for the Dewan and the Regional Representative Councils of both Levels I and II, through the use of 3 (three) kinds of ballot papers for the three kinds of people's representative bodies, carried out simultaneously on the same date throughout the whole of Indonesian territory.

V. Balance between the Number of the Dewan members elected in Java and outside Java.

This law decides that the number of D.P.R. members elected in the general elections in Java is balanced with the number of members elected outside Java (Article 6 § of the election Law No. 15, 1963).

To determine the number of elected representatives in each First Level Region, the basic calculation is that a minimum of 400,000 citizens of a First Level Region will get 1 representative. If in the general elections the number of population is used as a basis, then the number of representatives elected in Java island will be far more greater than the number of representatives outside Java. Considering the vastness and the potentials of the regions outside Java which have a smaller population than Java, it therefore appears necessary that the regions outside Java get a representation in conformity with the importance of these regions.
Therefore in Article 5 paragraph (5) the stipulation is made that:

a. The number of representatives for each electoral district is at least the same as the number of Second Level Regions in the electoral district concerned.

b. Each Second Level Region obtains at least one representative.
   
   By combining the number of population in a First Level Region and the number of representatives for each electoral district to be at least equal to the number of Second Level Regions in the electoral district concerned and each Second Level Region having at least one representative, there will be a little more balance between the representatives coming from Java and those from outside Java.

VI. The Status of the Armed Forces of the Republic of Indonesia in the general election.

Considering the dual function of the Armed Forces of the R.I. as a state apparatus and as a social force, which should be firmly united and be one unity in order to be able to become strong and safe guardians and protectors of Pancasila and the 1945 Constitution, special rules have been established for the Armed Forces.

The function and objective of the Armed Forces as meant above cannot be achieved if the members of the Armed Forces take part in the general elections, which means that the members of the Armed Forces form separate groups, and differ in their choice and support of the groups in society.

Therefore, the members of the Armed Forces of the R.I. do not use their right to elect and to be elected (Articles 11 and 14), but have their representatives in the people's deliberative/representative institutions through appointment by the President based on the suggestion made by the Indonesian Armed Forces Commander. The representation of the Armed Forces in the deliberative/representative institutions by appointment is enabled by the Pancasila democracy which calls for the participation of all representative forces in society in above-mentioned institutions.
VII. COMPOSITION OF THE MAJELIS, THE DEWAN, AND THE REGIONAL REPRESENTATIVE COUNCILS OF LEVELS I AND II.

1. The Majelis Permusyawaratan Rakyat (MPR)

The number of Members of the Majelis is twice that of the Members of the Dewan, or 1000 (one thousand) persons, consisting of:

a. The Members of the Dewan numbering 500 (five hundred) persons.

b. Additional Members of the Majelis being Delegates of the Regions, fixed as a minimum of 4 (four) persons and a maximum of 8 (eight) for every Level-I Region, to an overall total or 147 (one hundred and forty seven) persons.

c. Additional Members of the Majelis being Delegates of the organisations that took part in the general elections, and Delegates of the Armed Forces Functional Group, in numbers proportional to the composition of membership in the Dewan, to an overall total of 253 (two hundred and fifty-three) persons.

d. Delegates from the Groupings referred to in the 1945 Constitution, to the number of 100 (one hundred) persons. The Clarification given about "Groupings" is: "Bodies such as co-operatives, occupational associations and other collective bodies".

2. The Dewan Perwakilan Rakyat (DPR)

The Members of the Dewan number 500 (five hundred) persons, consisting of:

a. 400 (four hundred) persons, being candidates put up by the organisations taking part in the elections and elected as Members in General Elections.

b. 100 (one hundred) persons, appointed as Members from the Armed Forces Functional Group.

The number of elected Members of the Dewan for each Electorate/Level-I Region as per a. above, is determined by the provision that there is one representative for every full 400,000 (four hundred thousand) Nationals of the Republic of Indonesia in the Electorate/Level-I Region concerned, with the stipulation that every
Electorate obtains as many Members in the Dewan as there are Level-II Regions in the Electorate, and that every Level-II Region obtains at least one representative.

3. Level-I Regional Representative Councils (DPRD-I).

a. The number of Members of Level-I Regional Representative Councils is a minimum of 45 (forty-five) and a maximum of 100 (one hundred) persons, with the stipulation that every full 200,000 Nationals of the Republic of Indonesia obtain one representative.

Members of Level-I Regional Representative Councils consist of:

1. Candidates from organisations participating in the general elections who were elected in those elections.
2. Members appointed from the Armed Forces Functional Group.

The number of appointed Members in Level-I Regional Representative Councils is fixed at one fifth the total membership of the Level-I Council concerned.

b. The number of Members of Jakarta Capital City Level-I Regional Representative Council is now fixed at a minimum of 60 (sixty) members, for the following reasons:

1. Jakarta is both the capital of the state and a region of autonomous government and so the Jakarta Capital City Government has to conduct both these functions simultaneously.
2. The problems faced in Jakarta, due to its fast-increasing population and the demands made upon its facilities and its administration by its dual functions, require an administrative apparatus that can work quickly and accurately.
3. The special Territory of Jakarta Capital City is a Level-I Region, which, unlike others, is not divided into Level-II Regions each of which has its autonomous Representative Council, but is divided
simply into 5 City Areas, which are all under the control of the single Level-I Regional Representative Council of Jakarta Capital City.

4. Level-II Regional Representative Councils (DPRD-II)

a. The number of Members of a Level-II Regional Representative Council is a minimum of 20 (twenty) and a maximum of 45 (fourty-five) persons, with the stipulation that every full 10,000 (ten thousand) Nationals of the Republic of Indonesia obtain one representative.

b. Members of Level-II Regional Representative Council consist of:

(1) Candidates from organisations participating in the General Elections who were elected in those elections.

(2) Members appointed from the Armed Forces Functional Group.

The number of appointed Members in a Level-II Regional Representative Council is fixed at one fifth of the total membership of the Level-II Council concerned.

VIII. ORGANISATIONS PARTICIPATING IN GENERAL ELECTIONS

Majelis Decree Number III/MPR/1983 on the General Elections, determines that the 1987 General Elections will be contested by three participating organisations of socio political forces, which shall possess the same status, rights and obligations, namely, the Functional Group (GOLKAR), the Indonesian Democracy Party (PDI) and the Development Unity Party (PPP or Partai Persatuan).

IX. THE ORGANISATION CONDUCTING/CARRYING OUT THE GENERAL ELECTIONS.

The General elections Law provides that the President form a General elections Institute (LPU), chaired by the Minister for Home Affairs.

The Indonesian Electoral Committee (PPI) is set up as the agency conducting/carrying out the General Elections at National level.

At Regional levels the agencies conducting/carrying out the General Elections are:
a. A Level-I Regional Electoral Committee (PPD-I) is set up in every Level-I Region.
b. A Level-II Regional Electoral Committee (PPD-II) is set up in every Level-II Region.
c. Balloting Committee (PPS) are set up in every Kecamatan (District, sub-division of Level-II Region).
d. An Electoral Roll Committee (PANTARLIH) is set up in every Village or Kelurahan (city ward, sub-division of a Kecamatan).
e. Polling Teams (KPPS) are set up at every Polling Station (TPS) to carry out the balloting.
f. For Indonesian Nationals who are abroad, Overseas Electoral Committees (PPLN) and Overseas Balloting Committees (PPSLN) will be set up.

X. ACTIVITIES AND STAGES IN THE CONDUCT OF GENERAL ELECTIONS.

The conduct of the General Elections commences with the registration of electors and ends at the conclusion of the collective swearing-in of the membership of the Deliberative Institutions/People's Representative Bodies.

General Elections year is that in which votes are cast.

There are 12 (twelve) stages in the conduct of the General Elections, as follows:
1. The registration of electors/total number of nationals of the Republic of Indonesia.
2. Fixing of number of Members to be Elected for each Constituency.
3. Submission of Names and Symbols of Organisations participating in the general elections.
5. Examination of Candidates' Credentials.
6. Acceptance of Candidates/Drawing up of List of Candidates
8. Electoral Campaign.
11. Validation of General Election Results.
12. Swearing-in (by Oath or Promise) of Members.

add. 3 : The Electoral Campaign

a. The general election campaign is conducted by the Executives and/or members of the
Functional Group, the Indonesian Democracy Party and the Development Unity Party.

b. In the course of the general election campaign,
1) all sides must continue to hold to the Guide to the Comprehension and Practical Application of Pancasila (P4) and continue to maintain the cohesion and unity of the nation;
2) the whole of the public must give heed to and maintain public security and order and public interests.

c. Campaign activities are conducted, inter alia, in the form of public meetings; processions, public rallies, public festivities, and public gatherings; in broadcasts through the national radio and television stations; through posters, placards, circulars, slides, films, radio cassettes, video cassettes, slogans, symbols, banners, brochures, articles, pictures, the mass media; through demonstrating arguments and through all kinds and forms of public performance. The conduct of the campaign must conform with the legislative regulations in force.

d. The themes of the general elections campaign are the programs of each of the organisations participating in the general elections, related to National Development as the practical application of Pancasila.

e. The general election campaign is conducted within a period of 25 (twenty-five) days, followed by a period of calm for 5 (five) days.

add. 9: Balloting.

a. Votes are cast simultaneously on one day for Members of the Dewan, the Level-I regional Representative Councils and the Level-II Regional Representative Councils, on the Republic of Indonesia; voting is direct, universal, free and secret.

b. Ballot papers for the general elections of Members of the Dewan, the Level-I Regional Representative Councils, and the Level-II Regional Representative Councils are issued
in different colours, easily distinguishable, for each of the different representative bodies concerned.

add. 10: The Counting of Votes.

a. When the polling is over, the votes are counted in the Polling Station, watched by the electors and witnesses.

b. The result of the count at Polling Station is sent by the Chairman of the Polling Team to the Camat/Chairman of the Balloting Committee.

c. When the results of the counts at Polling Stations have been received, the Balloting Committee holds a meeting to count the votes in the constituency concerned. Members of the Committee to Supervise the Conduct of the Kecamatan General Elections are invited to attend, together with one member of each organisation participating in the general elections, who are declared witnesses.

d. The results of counts in the Balloting Committee are sent to the Level-II Regional Electoral Committee, which makes a count of all votes in its Region and forwards the results to the Level-I Regional Electoral Committee; the result of a similar count at this level is forwarded to the Indonesian Electoral Committee, where the final count is made.

add. 11: The Validation of the General Election Results.

a. The proportional representation system is used to determine the result of the general elections for Members of the Dewan, the Level-I Regional Representative Councils and the Level-II Regional Representative Councils.

b. The decision with respect to candidate declared elected for membership of the Dewan, the Level-I Regional Representative Councils and the Level-II Regional Representative Councils is bound to the numerical order in the approved list of candidates.

c. The method and process for fixing the election results are regulated by Government Regulation.
d. Announcement of the election results for the Dewan, the Level-I Regional Representative Councils and the Level-II Regional Representative Councils and informing the elected are made by the Institute of General Elections according to a method regulated by Government Regulation.

Jakarta, April 1990.
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