

The Burden of Proof in The examination of Election Disputes Before The Constitutional Court

Dr. Andi Muhammad Asrun, S.H., M.H.,

Associate Professor at the Legal Studies of Graduate School of Pakuan University

Corresponding email: asrun@unpak.ac.id

Abstract

The burden of proof in the course of examining the case in court is given to the plaintiff to prove the legality of his suit in accordance with the doctrine of law. Whoever sues, then he has to prove his lawsuit. In examining the lawsuit resulting from the Presidential Election, the Constitutional Court accepted digital materials as evidence from the parties. Digital evidence has not been accepted as evidence that can corroborate the examination process in general courts because the procedural law of the judiciary has not included digital evidence as decisive evidence in proving cases. This research will prove that digital evidence is decisive in the trial process at the Constitutional Court. This research uses normative legal research methods, with written evidence and laws and regulations as a reference.

Keywords: Election dispute, the burden of proof, the constitutional court, the national election commission, the principle of a fair and honest election

I. INTRODUCTION

It is a reality in almost all countries in the world today holding elections to elect "Heads of Government" and "Members of Parliament" in an effort to obtain a constitutional mandate from the people to run the government. The French philosopher Jacques Jean Rousseau named the efforts of getting the people to rule "*volonte generale*" (Nikmatul, 2014). Elections are the primary mechanism and prerequisite for representative democracy. Efforts to obtain the "people's mandate" must go through an election that is honest and fair and civilized. A democratic government is a system of government of a country whose power is absolutely determined by the people either directly or through the representatives of the people.

The peaceful transfer of leadership through honest, fair, and accountable elections is an important pillar of modern democracy. The European Commission for Democracy designed democratic electoral standards such as "the right of citizens to vote and be elected to bodies of state power" and "guarantees for the realization of voting rights and freedom of participation of the electoral process" (Venice Commission, 2007). Sincere political participation to determine the course of government is a fundamental right of citizens as is usually guaranteed in the constitution of any country that claims to be a democratic state (Wade & Philips, 1957). In addition, the

eminent constitutional law thinker A.V. Dicey believes that the guaranteed political participation of citizens in the constitution signifies a civilized *nation* (Dicey, 2015).

The conduct of quality elections cannot be separated from the role of political parties. Political parties have a very important position and role in any democratic system (Jimly, 2009). The institutionalization of political parties is the process of strengthening the attitudes and behavior of political parties so that a political culture is formed to support the basic principles of the democratic system. In the context of political development, it is important to have a solid and *adaptable* party system in order for political parties to be able to absorb and unite all the new social forces that have emerged as a result of modernization. Political parties must be able to become channels for political participation. The role of political parties can ultimately strengthen the vision of conducting democratic and quality elections.

In the realm of the sovereignty of the people, it is the people who are considered the owners and holders of the highest power of a state (Kusnardi & Ibrahim, 1983). It is the people who determine the complexion and manner in which government is organized. It is also the people who determine the goals to be achieved by the country and its government. In such a spirit, the founders of the state have determined that Indonesia is a democracy based on the law (*demokratische staats*), which in the future is emphasized through the provisions of Article 1 paragraph (3) of the 1945 Constitution.

In order for these people's representatives to act on behalf of the people, the people's representatives must be determined by the people themselves. The mechanism is through *general elections*. Elections are "*conditio sine qua non*" for a modern democracy. The people elects a person to represent him in the context of the participation of the people in the administration of state government in the People's Representative Institution. Elections are also a series of political activities to accommodate the interests or aspirations of the community. General election means the process of temporary surrender of the political rights of the people to the administration of the state (Budiarjo, 1990).

To achieve honest and fair and meaningful elections, elections must be held by organizers who have integrity, professionalism, and accountability which are carried out in a more qualified, systematic, *legitimate*, and accountable manner with the widest possible participation of the community. Election organizers, government officials, election participants, election supervisors, election monitors, voters, and all relevant parties must behave and act honestly in accordance with laws and regulations. Voters and participants in the general government are treated equally and free from fraud or unfair treatment from any party. Elections must be conducted in a higher quality manner to better ensure healthy, participatory competition, have a higher degree of representation, and have a clear accountability mechanism.

In modern political science literature, there are several basic characteristics of a democratic political system (Budiarjo, 2008). Among them are: *first*, the existence of broad and autonomous political participation; democracy first requires and requires the flexibility of participation for

anyone, whether individual or group, autonomously. Therefore, the first element in a democratic political system is the existence of broad and autonomous political participation.

Second, the realization of healthy and fair political competition. In the context of democracy, all political forces (political parties) or socio-social forces (interest groups and pressure groups) are recognized for their right to life and given the freedom to compete with each other fairly as a means of channeling people's aspirations, whether in elections or in other socio-political competitions. *Third*, there is a succession or circulation of power that is periodic, managed, and maintained cleanly and transparently, especially through the election process. *Fourth*, there is effective monitoring, control, and supervision of powers (executive, legislative, judicial, bureaucratic, and military), as well as the realization of checks and balances mechanisms among state institutions.

And, *fifth*, the existence of systems, values, and norms that are mutually agreed upon in society, state, and nation.

Meanwhile, from a substantive aspect, elections actually adhere to the values and principles of free, open, honest, fair, and competitive and adhere to direct, public, free and secret principles. An indicator of this substantive aspect is a very qualitative result, so elections are synonymous with the struggle for the political legitimacy of the electorate. Democratic elections are intended to get leaders who gain political legitimacy from the people, for which the following five principles are needed:

First, the principle of free elections means all citizens have the right to vote, independently, without pressure and/or coercion to exercise their right to vote. *Second*, the principle of openness means that elections involve all parties, so that their implementation is transparent, accountable, credible, and participatory. *Third*, the principle of fairness means that voters and election participants get the same treatment. *Fourth*, the principle of honesty means that all parties involved in elections must act and behave by promoting the values of truth. And *Fifth*, the competitive principle means that elections are free from all forms of political mobilization either with the lure of money, goods, services, or office or by intimidation, pressure, and coercion that makes certain election participants certain to win before all stages of the election end.

II. INDONESIAN ELECTIONS

Holding elections democratically is the dream of every Indonesian citizen. The implementation of elections is said to be run democratically if every Indonesian citizen who has the right to vote can channel his choice directly, publicly, freely, confidentially, honestly, and fairly. Each voter only exercises his or her right to vote once and has the same value, which is one vote. This is often referred to as the principle of one person, one *vote*, *one*.

Then the implementation of elections can be judged to take place democratically if it presents two aspects simultaneously, namely the procedural aspect and the substantive aspect. From the procedural aspect, among others, there are election regulations (Elections Law), Election

Organizers (General Election Commission and General Election Supervisory Agency), Election Participants (Political Parties and/or Individual Candidates), and Voters (Permanent Voter List). The indicator of this procedural aspect is a highly quantitative result, so elections are synonymous with the seizure of voters' votes.

This shows the importance of citizens' suffrage in elections in order to guarantee the human rights of citizens as a democratic ideal. Guarantees and protections of the rights and freedoms of citizens are the main pillars of democracy. In accordance with the principle of popular sovereignty, all aspects of holding elections must be returned to the people to determine them. The absence of guarantees on the right of citizens to choose the leader of their country is a violation of human rights.

As a consequence of the statement "Indonesia is a democratic country" as stated in Article 1 paragraph (20) of the 1945 Constitution, the executive institutions and legislatures at the central and regional levels must be elected through general elections (Ida, 2020). Elections for the two Institutions shall be held directly, freely, confidentially, honestly, and fairly every five years as stipulated in Article 22E of the 1945 Constitution. This democratic model requires a system of political participation that provides opportunities for citizens to participate effectively in the process of making and implementing political decisions.

Elections are held to run every joint of democracy, so the conduct of elections must be in line with the "Principles of Honest and Fair and Dignified Elections" as mandated by section 22E of the 1945 Act. Democracy is a means of people's political participation. The people elect is an executive government directly elected by the people and representatives of the people in the people's representative institution or parliament to carry out the mandate of popular sovereignty. It is the representatives of the people who act for and on behalf of the people, who politically determine the complexion and manner in which the government works, as well as the goals to be achieved both in the long and short term.

Then discussing the relationship between elections and people's sovereignty, the election is a logical consequence of adhering to the principle of people's sovereignty in the life of the nation and state. The basic principle of democratic state life is that every citizen has the right to actively participate in the political process (Thaib, 1993). This democratic society is an interpretation of the exercise of popular sovereignty. In this case, popular sovereignty is only possible if the people have a strong tendency towards a participatory political culture participative (Budiarjo, 2008). Political participation is at the core of democracy. In the idea of democracy, then whether or not a democratic political system is determined by the level of political participation of its citizens (Powell, 1982). In elections, universal *suffrage* is recognized. This suffrage is one of the fundamental prerequisites for the conduct of democratic elections.

We can also refer to the Constitutional Court Decision in Case No. 011-017/PUU-I/2003, dated February 24, 2004, mentioning:

"Considering that the constitutional right of citizens to *vote and right to be candidates* is a right guaranteed by the constitution, laws, and international conventions, the restriction of deviation, omission, and elimination of such rights is a violation of the human rights of citizens."

In a democratic country, elections are held regularly as Indonesia conducts general elections every five years. The general government system in Indonesia is somewhat different from other countries and differs in politics from one period to another. From its independence in 1945 to 2019, Indonesia held 13 parliamentary elections, which did not coincide with the presidential election. From 1945 to 1999, presidential and vice-presidential elections were conducted through elections in the People's Consultative Assembly. The 1955 elections were the first successful public elections to be successfully implemented democratically and served as guidelines for the implementation of the next general election. Subsequent general elections were held during the New Order Government in 1971, 1977, 1982, 1987, 1992, and 1997.

In the reform era, elections were held in 1999 to elect candidates for legislative members, namely the House of Representatives of the Republic of Indonesia, the Regional Representative Council of the Republic of Indonesia, and the Regional People's Representative Council at the Provincial and Regency/City levels. After the election of members of parliament, the People's Consultative Assembly of the Republic of Indonesia conducts the election of presidential candidates and also the election of vice presidential candidates. And starting in the 2004 General Election, the people can directly elect the Pair of Presidential and Vice Presidential Candidates.

Based on Indonesia's political history, all of these elections are not held in a vacuum situation, but rather elections are held in an environment that determines the outcome of the elections themselves (Budiarjo, 2008). From the general elections, it can also be seen that there are efforts to find a suitable election system for Indonesia. From the description of the conduct of general elections so far, it appears that the determination to conduct elections is in line with the spirit of the constitution, namely "honest and fair elections" as mandated in the provisions of Article 22E of the 1945 Act. There is also an illustration that there is an effort to develop the implementation of elections in a formal juridical manner towards democratic practices with a formal juridical umbrella so that in the future the quality of elections will be better with stronger guarantees for honest and fair and civilized elections.

According to the records of the proceedings in the People's Consultative Assembly of the Republic of Indonesia during the amendment process of the 1945 Law, the discourse on the direct election of the President and Vice President has been rolling since the meeting of the Workers' Body of the 2nd People's Consultative Assembly on October 6, 1999 (Ida, 2020). In the meeting of the Workers' Body of the People's Consultative Assembly, there was a debate about whether "the election of the President and Vice President shall still be conducted by the People's Consultative Assembly of the Republic of Indonesia as stipulated in Article 6 paragraph (2) of the pre-amendment 1945 Law", or "or is it directly elected by the people in a general election". In relation to the discourse on the election of the President and Vice President directly by the people

in the general election, a proposal arose to first review the applicability of the Decree of the People's Consultative Assembly No. II / MPR / 1973 concerning Procedures for the Election of the President and Vice President." Then the choice falls to the model of electing the President and Vice President directly elected by the people in a package of pairs of Presidential Candidates and Vice Presidential Candidates in a general election (Ibid).

III. THE CONSTITUTIONAL COURT

It is unavoidable to discuss the Constitutional Court of Indonesia as part of this paper. The establishment of the Constitutional Court is the fruit of political reforms after the fall of the dictator Suharto into power as the second President of the Republic of Indonesia ruling the country since 1966. The establishment of the Constitutional Court was mandated by the Amended 1945 Constitution. The existence of Constitutional Court ruled under Article 24C of the 1945 amendments, which was promulgated on 9 November 9, 2001. The original idea behind the establishment of the Constitutional Court was that there was a necessity to have a state organ reviewing the constitutionality of the laws. Such organ of state will be given the power to examine if any laws against the constitution as the supreme law of the land, popularly known as judicial review (Marshall, 1986). Indeed, the such idea appeared during the discussion of preparation for the country's independence in 1945. The country's founding fathers considered the necessity to include the power to examine laws not contrary to the constitution within the Supreme Court (Syahrial, 2006). The power given to the Constitutional Court then was to also include the dissolution of political parties, the examination authority dispute between state institutions, the examination results of the election dispute, and the dismissal of the president or vice president.

The establishment of the Constitutional Court finally reached a stage that is operational on July 31, 2003, after the Parliament and the Government collectively approved Law No. 24 of 2003 concerning the Constitutional Court. On August 13, 2003, President Megawati Sukarnoputri ratified the Constitutional Court Law. Two days later, on August 15, 2003, the President through Presidential Decree No. 147 /M Year 2003 endorsed the nine judges of the constitution for the first time, followed by the oath-taking of the constitutional judges at the State Palace on August 16, 2003. On October 15, 2003, the Supreme Court submitted all constitutional cases to the Constitutional Court, on October 15, 2003, which marks the operation activities of the Court as one of the branches of the judicial authorities.

Based on article 24 of the amended 1945 Constitution, the judicial power is carried out by the Supreme Court and its lower tribunal bodies together with the Constitutional Court.

The authority of the Constitutional Court is described in more detail by Article 24C of part (2) of the 1945 Constitution: "The judicial power shall be implemented a by a Supreme Court and judicial bodies underneath it in the form of public courts, religious affairs courts, military Tribunals, and state administrative courts, and by a Constitutional Courts." (Benny, 2013).

The establishment of the Constitutional Court can be seen as an effort to protect the constitution and the rights of citizens. The existence of the Constitutional Court in the constitutional context of Indonesia is considered the "guardian of the constitution functioning of constitutional justice in public life. The Constitutional Court's duty is to encourage and ensure that the constitution is respected and implemented by state officials and the public. The Constitutional Court acts as the sole interpreter of the constitution to the spirit of the constitution is always alive and coloring the sustainability of the state and society. "

Judge of the Constitutional Court consists of nine judges, three judges come from the Government, three judges from the Supreme Court, and three men came from the selection in the Parliament (Mahkamah Konsistusi, 2022).

In line with the implementation of judicial powers, the Constitutional Court possesses the authority to try a case at the first and final level and shall have the final power of decision in reviewing laws against the Constitution, determining disputes over the authorities of state institutions whose power given by this Constitution, deciding over the dissolution of a political party, and deciding disputes over the result of general elections.”(Constitution 1995).

The Constitutional Court has also duties to “issue decision over an opinion of the House of Representatives concerning alleged violations by the President and/or Vice-President of this Constitution.”(Constitution 1994). The Constitutional Court so far has yet to settle the process of impeachment of a president or vice president.

Since its establishment, the Constitutional Court has examined and decided cases of judicial review, authority disputes between state organs, disputed the results of elections of regional heads, and the results of the presidential elections. The function of impeachment of the President or Vice President has not been implemented by the Constitutional Court. The Constitutional Court works on the basis of procedural law as stipulated in Law Number 24 2003 regarding the Constitutional Court, as the majority rules amended by Law No. 8 of 2011. The Constitutional Court also made the Constitutional Court Regulation as technical guidelines in the proceedings, corresponding to the job of testing the constitutionality of laws, dispute settlement authority between state organs, dispute resolution results of the elections for the legislative elections and the presidential elections, and the election of regional heads.

In examining the dispute of legislative elections, then when the Constitutional Court to grant the set of votes were canceled as a whole because of cheating systematic, massive, and structured to determine the winner of the election is the plaintiff or partially cancel noise or ordered voting again due to fraud in the constituency which canceled the acquisition of votes, In proceedings disputed election results of the regional head at the provincial or district and the city, the Constitutional Court will cancel the entire results of the vote count as cheating systematic, massive and structured to determine the winner of the election is the plaintiff or ordered voting again in certain areas that have happened fraud (Gaffar, 2015). So far the Constitutional Court has

never granted a dispute over presidential election results. For the case of dissolution of political parties, so far the Constitutional Court has never dissolved a political party.

IV. ELECTIONS DISPUTE

A change of government through elections provides a periodic and peaceful transition of leadership. The general issue of election allows every citizen to elect their future leader according to their political beliefs with periodic elections being one of the pillars of any democratic system. However, formal disputes over election results are common around the world (Washington Post, 2022). For example, Germany handled 275 cases challenging the results of the 2017 legislative elections. From 2018 to 2019, the Costa Rican Supreme Election Court adjudicated 738 municipal and national election disputes. Judicial settlement of electoral disputes has become an important mechanism of any electoral democracy. In Indonesia, election disputes also occur after the election after the announcement of the results of the vote. The Constitutional Court has performed its function as a judicial institution for resolving electoral disputes.

When examining disputes about legislative elections, for example, the Constitutional Court of the Republic of Indonesia can overturn the vote due to systematic, massive, and structured fraud. It is possible that disputes may arise in the course of electoral competition (Gaffar, 2015). The Constitutional Court as the judicial institution tasked with sorting out electoral controversies must be independent, impartial, and technically proficient to ensure a constitutional settlement. The Constitutional Court may also cancel part of the vote count and order another round of voting if fraud is suspected in a particular constituency or multiple constituencies. One note that must be submitted is for the Constitutional Court to give more time and a greater number of days for the examination of election disputes, because of the wide scope of Indonesia's territory to provide evidence of election violations.

In judicial proceedings, the proof is the most essential and fundamental aspect of a trial. Basically, proof requires sufficient time for the parties to prove and the other party to be able to refute so that material truth is obtained. Some use justice that takes a long time such as civil, and criminal justice and there are also those who use fast justice for minor cases.

The evidentiary process in the Constitutional Court relates to its procedural law. The Procedural Law of the Constitutional Court provides for the enforcement of laws whose material has been prescribed in its material law. In cases of disputes over election results, each party is given the opportunity to prove what is postulated. The heaviest burden of proof lies on the part of the plaintiff who must prove the argument of his suit. One of the principles is whoever sues him is the one who is obliged to prove, and the evidence presented must be as bright as light. However, for the purpose of further proof, the constitutional court may summon the provincial, district, and/or municipal Election Commission to appear and testify at the hearing.

Basically, the principle of the rapid trial is commonly known as the principle of Speedy trial. In resolving disputes over election results the Constitutional Court, it is using the principle

of Speedy Trial. The use of the speedy trial principle gets many pros and cons for various parties at odds. This is because the time is very short for the plaintiffs to be able to prove fraud. Article 475 paragraph 3 of Law Number 7 of 2017 concerning General Elections states that the Constitutional Court as the authorized institution is given 14 days to resolve and resolve cases of Election Result Disputes. Such a short time is considered so hard to prove fraud and violations with a national shovel like in Indonesia.

In the evidentiary process, the most important thing is to present evidence in court. Article 36 paragraph (1) of Law No. 24 of 2003 concerning the Constitutional Court determines evidence including:

- a. letters or writings;
- b. testimony of witnesses;
- c. expert testimony;
- d. information of the parties;
- e. instructions;

At the hierarchy or level of evidence in evidence in the Constitutional Court as above, letter or written evidence is the top evidence commonly referred to as primary evidence. It is this primary evidence that must and foremost be proven. As a consequence, when primary evidence cannot be proven, other evidence is lost.

In general, there are several evidentiary theories related to the burden of proof in the judicial process, including affirmative theory, rights theory, objective legal theory, propriety theory, and encumbrance theory based on the rules concerned. The affirmative theory is a theory that states that the burden of proof is placed on the party who postulates something, not on the party who denies or refutes something (*negative proof*). Negative proof must be avoided because it is viewed as unfair based on the assumption that in law the specific evidence given is against a right or event, not against the absence of a right or event (Maruar, 2012).

The evidence submitted to the Constitutional Court, whether submitted by the petitioner or submitted by the respondent and/or related parties, its acquisition or how to obtain it must be legally accountable. Evidence obtained or obtained in a way that is contrary to the law (illegally obtained evidence) cannot be passed by constitutional judges as evidence. Therefore, every applicant and or other party submits evidence to a constitutional judge, always examining how to obtain or obtain such evidence. For evidence from the applicant, it is usually conducted in a preliminary hearing.

As an effort to overcome the short allocation of time in the session at the Constitutional Court, electronic evidence is one of the pieces of evidence that can be used in court. The use of teleconference media and electronic filing of cases can help parties to disputes in the process of proving a lawsuit. Electronic evidence that can be submitted is in the form of "sound recordings and image recordings", such as cellphone conversations and video recordings during campaigns.

However, all electronic evidence advanced to the court must meet the elements of validity as stipulated in Law Number 11 of 2008 concerning Electronic Information and Transaction. The requirement for the validity of electronic documents is if you use an electronic system in accordance with the provisions regulated in Law Number 11 of 2008, especially in Article 6 of, namely "Electronic information and/or Electronic Documents are considered valid as long as the information contained therein can be accessed, displayed, guaranteed integrity, and accountable so as to explain a situation". In addition, there are also specificities in the implementation of electronic certification and electronic systems, and electronic transactions.

The legality of electronic pieces presented as proof at court was further regulated by the Constitutional Court Decision Number 20/PUU-XIV/2016. The court decision is in line with Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 regulates electronic evidence serving as an extension of valid evidence according to the current procedural law in Indonesia. Such a piece of evidence can be presented as evidence before the court. The regulation regarding electronic proof must be based on the system and the principle of legal evidence under the law recognized in Indonesia. The electronic evidence such as electronic information and/or documents is varied according to the definition set forth in Article 1 point 1 and point 4 of Law Number 11 of 2008 concerning Electronic Information and Transactions. This research employed empirical-judicial methods supported by the research data obtained from a field study that also required interviews with the judge of the District Court of South Jakarta. The data were analyzed based on qualitative-descriptive methods. The existing data were processed and presented in diagrams and a systematic and understandable narration. The research has revealed that electronic evidence can serve as valid evidence in court as long as it complies with Law Number 11 of 2008 concerning Electronic Information and Transactions and Constitutional Court Decision Number 20/PUU/XIV/2016.

The following are some of the problems that are often raised as arguments for lawsuits in the examination of disputes over the results of presidential elections, the election of candidates for regents and mayors, and the selection of candidates for parliamentary members, namely:

- 1). Errors in vote counting by the Election Commission;
- 2). Fraud in the voters' list, election logistics, and the commission's digital security system; \
- 3). Mobilisation of non-listed voters;
- 4). the Election Commission -engineered fraud allowing people to vote more than once;
- 5). Money politics in various areas that contributed to Jokowi's victory;
- 6). The election commission destroys evidence by opening the ballot box.

Due to the inability to prove the arguments of the lawsuit, the court rejected all those complaints. In other words, the plaintiff did not support the charges with strong evidence. Its case was unclear and not detailed. The legal team failed to convince the panel of Justices that there have been structured, systematic and massive fraud. Even if there were some violations in a number of

voting stations that would require a re-vote, the court deemed that it would not change the ranking of the candidates based on the total votes.

Regarding additional voters and special voting procedures that the Election Commission created for people who had not registered to vote but wanted to vote on election day, the court ruled that these instruments were only transitional. They are to be used in a strict manner until the country's civil administration system has improved. However, the court made directions to improve the quality of future elections. The court also noted a need for the Election Monitoring Body to be meticulous in recommendations to the Election Commission. The court said the monitoring body should improve its monitoring system to ensure the recommendations are carried out.

In Indonesia's legal system, the Constitutional Court is a special court separate from the Supreme Court (MA) but of the same level. Its decisions are final and binding. The court's ruling immediately takes effect once announced. There are no appeals against Constitutional Court decisions. Nevertheless, Prabowo's legal team is continuing challenges through the State Administrative Court and the Supreme Court. The two institutions are likely to reject these challenges.

V. CONCLUSION

Our historical memory of how dissent among the nation's leaders is sometimes sharp, but they remain in the spirit of brotherhood as fellow nation's children. The competition during the conduct of the 1955 General Elections did not take away their national spirit. Elections will indeed produce political achievements in an atmosphere of sharp contestation, but the participants of the elections can again forge brotherhood as demonstrated by Indonesia's leaders after the 1998 reforms. The election dispute itself has become part of a democratic party called Elections.

Indonesia's vast territory with a large population spread throughout the country and has national complexity demands professional and credible election organizers who can be accounted for. Therefore, efforts need to be made to further improve the function of planning, implementing, supervising, and evaluating the implementation of elections.

Reflecting on the post-election record, the author wants to emphasize that if we say "Elections are the Party of Democracy," then we must also say that "Elections are conducted with a spirit of brotherhood, then at the end of election activities must also be in the atmosphere of brotherly spirit. All records of the implementation of elections must be followed up with improving the quality of elections in the future.

REFERENCES

Asshiddiqie, Jimly. *Pengantar Ilmu Hukum Tata Negara*. (Introduction to the Constitutional Law Studies) Jakarta: RajaGrafindo Persada, 2009.

- Asy'ari, Hasyim. "Pendaftaran Pemilih di Indonesia" (Voters Registration in Indonesia), paper presented in the Internasional Seminar "Building the Voters Registration System for People's Rights: Indonesia dan International Experiences", Jakarta, 30 March 2011.
- Budiarjo, Miriam. *Hak Asasi Manusia Dalam Dimensi Global*, (Human Rights in Global Dimension) Jurnal Ilmu Politik, No. 10, 1990, Jakarta.
- Budiardjo, Miriam. *Dasar-dasar Ilmu Politik*. (Principle of Political Sciences) Jakarta: Gramedia, edisi revisi, 2008.
- Budhiati, Ida. *Mahkamah Konstitusi dan Kepastian Hukum Pemilu*. (The Constitutional Court and the Legal Certainty of Election) Jakarta: Sinar Grafika, 2020.
- Dicey, A.V. *Introduction to the Study of the Law of the Constitution* [1915], edited by Roger E. Michener (Indianapolis: Liberty Fund, Inc., 2011).
- European Commission for Democracy Through Law (Venice Commission), Strasbourg, January 22, 2007, Convention on the Standards of Democratic Elections, Electoral Rights, and Freedom in the Member States of the Commonwealth of Independent States, article 1 part 1.
- Kusnardi, Moh. dan Harmaily Ibrahim. *Pengantar Hukum Tata Negara Indonesia* (Introduction to the Indonesian Constitutional Law Studies), Depok: Pusat Studi Hukum Tata Negara FHUI, cet.ke-5, 1983.
- Powell, Jr., G. Bingham. *Contemporary Democracies: Participation, Stability, and Violence*. Cambridge: Harvard University Press, 1982.
- Thaib, Dahlan. *Implementasi Sistem Ketatanegaraan Menurut UUD 1945*. (The Implementation of Constitutional System Based on the 1945 Constitutional) Jakarta: Liberty, 1993.
- Wade, E.C.S and G. Godfrey Phillips, *Constitutional Law, An Outline of the Law, and the Constitution, including Central and Local Government and the Constitutional Relations of the British Commonwealth*. London: Longmans, Green, and Co, fifth edition, 1957.
- <https://www.washingtonpost.com/politics/2021/07/14/why-is-it-so-hard/settle-disputed-us-election>, Joseph Kalaver, "Why is it so hard to settle a disputed election?" read on June 10, 2022.
- <https://aceproject.org/ace-en/topics/1f/1fb12/default>, "ACE, The Electoral Knowledge Network, Electoral Dispute Resolution," read on June 10, 2022.