



## THE CONSTRUCTION OF THE PRESIDENT AND VICE PRESIDENT POSITIONS UNDER THE 1945 INDONESIAN CONSTITUTION

Fuqoha\*

Faculty of Business and Humanities, Muhammadiyah Cyber University,  
Yogyakarta, Indonesia.

\* Corresponding Author: [fuqoha20220600040@sibermu.ac.id](mailto:fuqoha20220600040@sibermu.ac.id)

### ABSTRACT

*The filling of the positions of President and Vice President is one of the important elements in the administration of the state. In the constitution, it is explained that the holder of governmental power is the President, assisted by a Vice President. Based on the constitution, Indonesia has regulated the mechanism for filling the positions of President and Vice President. The principles of the Indonesian state constitution or the basic law of the Republic of Indonesia contain the principles of democracy. The filling of the positions of President and Vice President underwent changes after the Indonesian Constitutional Amendment, from indirect elections to direct elections. This needs to be a point of attention regarding the meaning of the presidential and vice-presidential election system according to the Constitution. The research method uses a normative juridical approach with a descriptive-analytical type of research. Research results, first, the system of filling the positions of President and Vice President before the Amendment was chosen by the People's Consultative Assembly (MPR), whereas after the Amendment, they were directly elected by the people. Second, the construction of the appointment of the President and Vice President needs to be carried out by philosophically examining the values and spirit of the 1945 Constitution within the framework of representative elections.*

**Keywords:** Construction; Position; President; General Election; Constitution.

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DOI:

<https://doi.org/10.30656/jh.ak.v2.i1.10083>

### ABSTRAK

Pengisian jabatan Presiden dan wakil Presiden merupakan salah satu unsur penting penyelenggaraan negara. Dalam konstitusi dijelaskan bahwa pemegang kekuasaan pemerintahan adalah Presiden dan dibantu oleh seorang wakil Presiden. Berdasarkan konstitusi negara Indonesia telah diatur mengenai mekanisme pengisian jabatan Presiden dan wakil Presiden. Prinsip konstitusi negara Indonesia atau undang-undang dasar negara Republik Indonesia mengandung prinsip demokrasi. Pengisian jabatan Presiden dan wakil Presiden mengalami perubahan pasca Amandemen Konstitusi Indonesia, dari pemilihan tidak langsung menjadi pemilihan langsung. Hal tersebut perlu menjadi perhatian tentang makna dari sistem pemilihan Presiden dan wakil Presiden menurut Undang-Undang Dasar. Metode penelitian menggunakan pendekatan yuridis normatif dengan jenis penelitian deskriptif analitis. Hasil penelitian, pertama sistem pengisian jabatan Presiden dan wakil Presiden sebelum Amandemen dipilih oleh majelis permusyawaratan rakyat (MPR), sedangkan setelah Amandemen dipilih oleh langsung oleh rakyat. Kedua, konstruksi pengisian jabatan Presiden dan wakil Presiden perlu dilakukan dengan menelaah secara filosofis nilai-nilai dan semangat Undang-Undang Dasar 1945 dalam kerangka pemilihan melalui perwakilan.

**Kata Kunci:** Konstruksi; Jabatan; Presiden; Pemilihan Umum; Konstitusi.

## 1. INTRODUCTION

Democracy in Indonesia has advanced significantly since the transition. The foundations of democracy must, without a doubt, be tempered with rules so that democracy does not exceed its limitations. The principle of democracy states that everyone has the right and freedom to express their will as long as it does not clash with the interests of the state. As a result, within the context of the Indonesian state's rule of law, the Constitution serves as the foundation for democracy.

The principle of democracy based on the constitution broadly expresses the concept of democracy that gives citizens with freedom and liberty within the limits outlined in the country's constitution. The principle of democracy creates room for citizens, one of which is the framework of general elections as part of the fundamentals of a democratic state. However, constitutional provisions cannot be used to undermine the core essence of democracy by understanding democracy as freedom in ways that violate the ideals of the Constitution itself.

The Indonesian constitutional system regulates the division of governmental power institutions. One of the institutional powers is the state government power as regulated in the constitution or the 1945 Constitution of the Republic of Indonesia article 1 paragraph (1) that the state of Indonesia is a unitary state in the form of a Republic. The power of the Republic is led by a President as stipulated in Article 4, paragraph (1), that the President of the Republic of Indonesia holds governmental power according to the law. Furthermore, Article 4, paragraph (2) states that in carrying out his duties, the President is assisted by a Vice President. Thus, the President has the power in the administration of government based on statutory provisions, which means he is the leader of all the people, the nation, and the state of Indonesia. Therefore, the President and Vice President represent the ideals and rights of all Indonesian people in order to achieve the goals and aspirations set forth in the 1945 Constitution.

The positions of president and vice president in Indonesia are political positions whose mechanisms are conducted through a system of general elections. Elections are held to fill political positions in the government democratically. The filling of these positions can be done in various ways, including appointment, election, inheritance, rotation, and so on. (Arrasjid, 2006:23) In the practice of constitutional law, the filling of political positions as part of filling state positions, which Bagir Manan refers to as an essential element of constitutional law that impacts the functioning of state functions as they should be. (Manan, 2003:75) In the practice of constitutional law, the filling of political positions as part of filling state positions, which Bagir Manan mentioned as an important element of constitutional law, has implications for the proper functioning of state functions.

The purpose of general elections, as stated by Jimly Asshiddiqie, can be formulated into four main objectives: to enable a orderly and peaceful transition of

government leadership, to allow for the replacement of officials who will represent the interests of the people in representative institutions, to implement the principle of people's sovereignty, and to uphold the principles of human rights.(Asshiddiqie, 2007:754)

The process of filling state positions or government positions by Jimly Asshiddiqie can be done through 2 (two) models, namely through elections (elected public officials) and without elections (non-elected public officials).(Asshiddiqie, 2007:745) The process of filling through elections is an electoral process as regulated by law, which can be conducted through direct elections by the people and indirect elections through representatives. Since the independence of Indonesia, the country has indeed prepared itself to conduct general elections with various regulations prepared by the government. According to Sri Soemantri, the concept of elections must be based on Pancasila democracy as implied in the preamble of the 1945 Constitution, as stated in the fourth principle of Pancasila which declares "a democracy led by the wisdom of representative deliberation."(Huda & Nasef, 2022:42)

Following reform, the electoral system began to be built to be more transparent and democratic, influencing the electoral process through direct elections for both legislative (DPR, DPRD, and DPD) and executive (President and Vice President). Elections that were intended to take place in 2002 were moved to 1999 using a closed proportional system, and the presidential election was the same as the previous one using indirect democracy. Following the 1999 elections, the dynamics of electoral politics prompted reforms to the electoral system, beginning with the revision of the 1945 Constitution and progressing to four (4) amendments. These developments signified a transition in Indonesia's electoral system, which was performed openly through direct elections (direct democracy).

Articles 6 and 6A of the 1945 Constitution detail the mechanism for filling the seats of President and Vice President after the amendments. Article 6 Paragraph (1) states that presidential and vice-presidential candidates must be Indonesian citizens by birth, have never voluntarily accepted citizenship in another country, have never betrayed the nation, and are spiritually and physically capable of carrying out their duties and obligations as President and Vice President. Furthermore, Article 6A Paragraphs (1) and (2) govern the election requirements that the President and Vice President be directly elected by the people, with candidates offered by political parties or a coalition of political parties.

The Constitution of the Republic of Indonesia has regulated the determination of the winner of the presidential and vice-presidential elections as stipulated in Article 6A Paragraph (3) that the pair of presidential and vice-presidential candidates who

receive more than fifty percent of the total votes in the election with at least twenty percent of the votes in each province spread across more than half of the provinces in Indonesia, shall be inaugurated as President and Vice President. This conception requires that the most important interest is the highest number of votes, with more than 50% (fifty percent) as the winner of the Presidential and Vice Presidential election, while also requiring representation of votes in each region with a minimum of 20% (twenty percent) as a condition for representing the people's support.

Observing the electoral system in Indonesia since independence has indeed undergone changes along with the strengthening of government stability. The constitutional framework, both before and after the amendments, with its implementation mechanisms, is regulated by electoral legislation. Therefore, the design of the electoral system implemented by Indonesia is based on derivative legal rules established as the foundation for the conduct of elections in Indonesia, where history records the existence of various regulations or election laws since the Old Order, the New Order, the post-reform era, and the electoral laws currently used in Indonesia. Each election law produces a different electoral system as a manifestation of the design of the democratic system in Indonesia. Thus, in each regulation and electoral law, legal comparisons and legal debates arise in the implementation of the electoral system in Indonesia.

Comparison of electoral laws as an implication of the changes and reforms in electoral laws that have existed over time until the current electoral law system implemented by the Indonesian state. Therefore, this paper attempts to outline the comparison of Indonesia's electoral law system from the early independence period and the Old Order, during the New Order, and post-reformasi. The comparison of electoral law in Indonesia in this paper uses the perspective of constitutional democracy, which is the foundation of the concept of a democratic rule of law state. Therefore, the researcher assumes that every electoral system will have implications for the mechanisms of conducting elections. Thus, an electoral system based on electoral regulations directly impacts the fundamental conception of elections as mandated by the constitution, which in turn affects the technical organization of elections, influencing the process and outcomes of elections in terms of quality and budget financing for the implementation of the elections themselves.

The failure of democracy is caused, first, by anomalies in the democratic system that are only procedural and formal and not implemented substantively. Second, the behavior of actors in the practice of democracy is only controlled by political elites, creating an oligarchic practice of democracy. (Mariana & Puskarina, 2008:13) Next, looking at the various electoral processes that have been carried out, it can be seen that the public's understanding of elections is still very low, and even the people or voters tend to make their choices emotionally rather than substantively.

Based on the above description, the researcher embarks on an issue related to the model and system of filling the positions of President and Vice President in Indonesia before and after the amendment of the 1945 Constitution, and strives to construct a filling system for the positions of President and Vice President that aligns with the principles of constitutional democracy according to the 1945 Constitution.

## **2. RESEARCH METHODS**

This research was conducted using a normative juridical approach, which is an approach that conceptualizes law as norms, rules, principles, or dogmas through the systematic organization and classification of data and the analysis of applicable legal regulations, particularly those related to the ownership system and the governance system within the framework of the constitutional system as outlined in the 1945 Constitution.(Soekanto & Mamudji, 2012:15)

## **3. RESULTS AND DISCUSSIONS**

### **1. The System of Filling the Positions of President and Vice President in Indonesia Before and After the Amendment of the 1945 Constitution**

The Constitution or Basic Law is the fundamental law that serves as a guideline in the administration of a State. This means that all practices of state administration or governance are outlined within it as the foundation of the state. The values that encompass the constitutional system are outlined in the Constitution.(Asshiddiqie, 2011:29) Based on that conception, all practices of state administration are regulated and conducted based on the values contained in the Constitution or the 1945 Constitution.

According to Hans Kelsen, forms of government are classified into Monarchy and Republic.(Isra, 2013:23) The concept of a Republic state means that the Head of State in a Republic government is elected in a general election for a specific term, namely the position of President.(Isra, 2013:23) According to Harun Alrasid, the position of President is closely related to the form of a Republic. According to Harun Alrasid, the position of President is closely related to the form of a Republic. According to him, the concept of a Head of State led by a President is a State in the form of a Republic.(Alrasid, 1999:10)

Based on the thoughts of Saldi Isra, who stated that in a Republic, the government is led by a President elected through a general election. Thus, the position of President in the Indonesian constitutional system is carried out through a general election. The concept of general elections for filling the presidential

position in Indonesia was only implemented after the presidential term during the New Order (ORBA) era or during the presidency of the second president, Suharto.

A historical review of the filling of the presidential position in Indonesia shows that at the beginning of the independence of the Republic of Indonesia, it was done through appointment as stated by Soekarno, where the election of the President and Vice President of the Republic of Indonesia was conducted after the Constitution was ratified by the Indonesian Independence Preparatory Committee (PPKI). In principle, the regulations and provisions for filling the position of President are enshrined in the Constitution in Article 6 Paragraph (1) "The President is a native Indonesian" and (2) "The President and Vice President are elected by the People's Consultative Assembly with the most votes." With the existence of that Article, the mechanism for filling the position of President is carried out by the People's Consultative Assembly, as a representation of the people's sovereignty in Article 1 Paragraph (2).

In the process of filling the position of President of Indonesia after the Proclamation of Independence, the provisions in Article 6 of the Constitution were not used. The articles used in filling the position of the first President of Indonesia were based on the articles in the Transitional Provisions. The first election of the President and Vice President of Indonesia was not conducted by the People's Consultative Assembly (MPR) but was chosen by the Indonesian Independence Preparatory Committee (PPKI) according to Article III of the Transitional Provisions.(Huda, 2013:118) The legal basis or regulation for filling the position of President of Indonesia after the Proclamation of independence did not use the Constitutional rules but rather Article III of the Transitional Provisions, which was ratified by the Preparatory Committee for Indonesian Independence (PPKI), namely "For the first time, the President and Vice President were elected by the Preparatory Committee for Indonesian Independence."

The replacement of the President of the Republic of Indonesia in the following period was also not carried out based on the general election process. This was based on the appointment of the President's position through the March 11th Order and not through the election mechanism by the People's Consultative Assembly. Thus, based on the March 11 Order given by President Sukarno, the Provisional People's Consultative Assembly (MPRS) appointed General Suharto as the President of the Republic of Indonesia until a President was elected by the People's Consultative Assembly resulting from the election. This was established in Decree No. XLIV/MPRS/1968. Entering the New Order era, the presidential election was conducted based on the provisions of the Constitution. After President Suharto took office as President, replacing President Sukarno, where the power or the Presidency of Sukarno was revoked by the People's Consultative Assembly through TAP MPRS No.

XXXIII/MPRS/1967 and the appointment of General Suharto as President through Decree No. XLIV/MPRS/1968.

Thus, the Provisional People's Consultative Assembly (MPRS) assigned Suharto as the MPRS's mandate holder to prepare and conduct the general elections. Which was scheduled to be held in July 1971. And held the presidential election resulting from the elected MPR meeting in the 1971 election in 1973. (Isra, 2013:135) Regulations regarding the filling of the Presidential Office are based on the 1945 Constitution, and the filling of the Presidential Office is governed by MPR Decree No. II/MPR/1973 as stated in the recitals that it is the duty of the People's Consultative Assembly to elect the President and Vice President.

In the course of Indonesia's New Order constitutional system, not many changes were made to the 1945 Constitution. Even the 1945 Constitution could not be touched by anyone, only the New Order government could touch and interpret the meaning contained in the Constitution. The most prominent aspect of the interpretation of the Constitution is Article 6 and 7. The President and Vice President are elected by the People's Consultative Assembly through consensus, and there must be a single candidate, so there is no voting. (Huda, 2013:145)

Based on the framework for filling the positions of President and Vice President in the general election system in Indonesia from independence, the old order to the new order shows that the system used is the representative system. If related to the procedure for filling the position of President, then the filling of the first President of the Republic of Indonesia was done through an indirect popular vote. In this case, because the people were not directly involved in electing the President and Vice President in an open general election. (Asshiddiqie et al., 2006:36)

The regulation for filling the positions of President and Vice President remains based on Article 6 of the 1945 Constitution and the People's Consultative Assembly Decree TAP MPR Number VI/MPR/1999. There are two improvements made by the MPR in the procedure for filling the positions of President and Vice President. First, there is an opportunity to nominate someone as President without going through a faction. In Article 8 Paragraph (2), it is stated that the Presidential and Vice Presidential candidates can also be proposed by at least seventy members of the MPR consisting of one or more factions. Second, the removal of the provision that the President and Vice President can work together. (Isra, 2013:213)

The amendment of the Constitution reflects changes in social conditions, changes in ways of thinking, and changes in the aspirations of the entire Indonesian nation regarding the order of community life, nationhood, and statehood. (Asshiddiqie, 2012:266) Changes to the 1945 Constitution, Slamet Effendy

Yusuf and Umar Basalim put forward six reasons, namely philosophical, historical, juridical, constitutional practice, and the material of the 1945 Constitution. Following that opinion, changes to the constitution must align with the provisions that serve the goals of the Indonesian nation and state. This change must align with philosophical, historical, and legal values, as well as avoid conflicts between constitutional practices and the contents contained within the Constitution. (Isra, 2013:153)

In the system of filling the Presidential Office, there have also been changes in the procedures for its filling. The regulation for filling the position of President, namely Article 6A Paragraphs (1) and (2), states "The President and Vice President are elected as a pair directly by the people" and "the pair of candidates for President and Vice President are proposed by political parties or a coalition of political parties participating in the general election before the implementation of the general election." From the explanation of the aforementioned Articles, it is clarified that every Indonesian citizen who meets the provisions of Article 6 can become or nominate themselves as President and Vice President. However, Article 6A Paragraph (2) reflects the opposite, because not all Indonesian citizens can nominate themselves as presidential and vice-presidential candidates even if they meet the provisions of Article 6 of the 1945 Constitution.

To conduct the presidential and vice-presidential elections, the government issued a law on the presidential and vice-presidential elections. The implementation of the mechanism for filling the positions of President and Vice President after the amendment of the 1945 Constitution, and the initial regulation regarding the filling of the positions of President and Vice President, was stipulated in a Law on the Implementation of the Presidential and Vice Presidential Elections Number 23 of 2003. According to Article 2 of this Presidential election, "The Presidential and Vice Presidential elections are conducted based on the principles of direct, general, free, secret, honest, and fair." In accordance with Article 6A Paragraph (1) of the Constitution, the election of the President and Vice President is conducted through direct elections by the people in a general election. This became the first presidential and vice-presidential election in Indonesia directly chosen by the Indonesian people, without going through the election by the People's Consultative Assembly.

Regulations regarding the filling of the positions of President and Vice President are stipulated in Law Number 7 of 2017 concerning General Elections. In the election of the President and Vice President according to this law, the sovereignty of the people is exercised directly by the people without being represented by representatives as before the Amendment of the 1945 Constitution. The mechanism for the election of the President as outlined in the Constitution and the Presidential Election Law aligns with the principles of democracy. Because the presidential



election is conducted through the mechanism of a general election, where a general election is a characteristic of democracy. However, the mechanism for filling the positions of presidential and vice-presidential candidates mandated in the Constitution Article 6A Paragraph (2) is through political parties, where this provision creates opportunities to become President and Vice President that are closed to the people who do not receive support from the party.

Although the positions of President and Vice President are filled directly, political parties play a role in every appointment of the President and Vice President. The provisions for filling the position of President after the amendment of the 1945 Constitution seem to legitimize political parties as the center of power to determine the positions of President and Vice President. The sovereignty of the people and the human rights enshrined in the 1945 Constitution seem to be eroded by the regulations governing the filling of the Presidential Office in the 1945 Constitution and the Law implementing it, namely the General Election Law.

## **2. The Construction of the Appointment of the President and Vice President Positions in Accordance with the Principles of Constitutional Democracy according to the 1945 Constitution**

The development of democratic principles eventually gave rise to models and types of democracy as proposed by David Held, which include participatory democracy, liberal democracy, and single-party democracy. (Huda, 2013:14) Participatory democracy refers to direct democracy where decision-making involves citizens directly. Liberal democracy refers to representative democracy that uses elected actors or officials to represent the interests of citizens. Meanwhile, the third model is based on a one-party model that refers to the decisions of a political party.

Robert A. Dahl proposed the principles of ideal and realistic democracy in the selection of positions that: (Hendriks, 2010:23) "The minimum requirements for such a realistic democracy, sustainable in the long term and on a larger scale on elected officials is government decisions are checked and legitimated by elected representative,...". In the principles of democracy, the values of human rights are contained, among which is the right to be elected and to elect. (Fuady, 2010:42) With the right to vote and be elected, it means having the right to determine the President and Vice President through an electoral mechanism. Where elections are a characteristic of a democratic country.

After the amendment of the 1945 Constitution, which covered almost the entire content of the 1945 Constitution. Including the Amendment to the 1945 Constitution, regarding the regulation of filling the positions of President and Vice

President. After the Amendment of the 1945 Constitution Article 6A Paragraph (1) and (2), the President and Vice President are directly elected by the people in a general election. The 1945 Constitution Article 6A paragraph (1) states that the President and Vice President are elected as a pair directly by the people, and (2) the pair of Presidential and Vice Presidential candidates are proposed by political parties or a coalition of political parties participating in the general election before the implementation of the general election.

The construction of that Article indirectly undermines the principle of democracy for the sovereignty of the people, especially the freedom and equality of the people to participate and compete in filling the positions of President and Vice President.(Firdaus, 2015:251) It should be as stated by Maswadi Ra'uf, providing guarantees for freedom/equality and the sovereignty of the people.(Mufti & Naafisah, 2013:27)

From the perspective of democracy, democracy guarantees the right of the people to determine the course of the State. Because in a democratic state, the system of human rights can be implemented. In principle, democracy grants the same rights to all citizens without exception. Carol C. Could stated that political freedom creates a guarantee of balance between government, change, and social justice.(Mufti & Naafisah, 2013:27) Referring to Habermas's view that democracy in positive law is a basic system right. This means that the right is reflected as a constitutional right, namely equal individual freedom and equal opportunity for every citizen to participate in the political process.(Mufti & Naafisah, 2013:74)

The positions of president and vice president in Indonesia are political positions whose mechanisms are conducted through a system of general elections. Elections are held to fill political positions in the government democratically. The filling of these positions can be done in various ways, including appointment, election, inheritance, rotation, and so on.(Arrasjid, 2006:23) In the practice of constitutional law, the filling of political positions as part of the filling of state positions, which Bagir Manan refers to as an important element of constitutional law, has implications for the proper functioning of state functions.(Manan, 2003:75)

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officials).(Asshiddiqie, 2007:745) The process of filling positions through elections is an electoral process as regulated by law, which can be conducted through direct elections by the people and indirect elections through representatives of the people. Since the independence of Indonesia, the country has indeed prepared itself to conduct general elections with various regulations prepared by the government. According to Sri Soemantri, the concept of elections must be based on Pancasila democracy as implied in the preamble of the 1945 Constitution, which is stated in the fourth principle of Pancasila that reads, "the people led by the wisdom of deliberation in representation."(Huda & Nasef, 2022:42) Quoting Harun Alrasid's opinion on the meaning contained in Article 6 Paragraph (2) that the position of President is filled by election, the election system used is an indirect election system, which involves choosing representatives who sit in a body.(Alrasid, 1999:28)

Reviewing The history of elections that have conducted the electoral process is essentially carried out in accordance with the nation's ideals as outlined in the Constitution. History records that since the legislative elections, a President has been elected in accordance with the mandate of the 1945 Constitution, which is the authority of the People's Consultative Assembly (MPR). As Saldi Isra stated, the President is the MPR's mandate holder who was elected through the MPR's General Session, which appointed President Suharto as the elected President through the 1971 election results, confirmed in 1973.(Isra, 2013:135)

Post the resignation of President Suharto and the end of the New Order regime, there was hope and the spirit of reform in the administration of a more democratic state. The electoral system began to be designed to be more open and democratic, impacting the electoral process through direct elections in both legislative elections (DPR, DPRD, and DPD) and executive elections (President and Vice President). Elections that were supposed to be held in 2002 were accelerated to 1999 with a closed proportional system and the same presidential election as the previous one through indirect democracy.

The 1999 elections were a mandate of reform that marked a change in the electoral system in Indonesia. This was marked by changes in the election participants or political parties participating in the democratic festivity. The 1999 electoral system continued to use a proportional representative system with the highest vote-getter method. The number of parliamentary seats obtained by each political party is based on the percentage of votes received by the party in the election.

The history of the 1999 elections ended the dominance of a single political party that had prevailed during the New Order regime and provided space for political parties to participate in the political contestation in Indonesia. The result of

the 1999 elections was marked by the victory of the Indonesian Democratic Party of Struggle (PDIP) under the leadership of Megawati Soekarnoputri. The victory of the party in parliament will essentially determine the leader of the government, where the head of government, namely the president and vice president, are elected by the members of the People's Consultative Assembly (MPR). Based on the results of the legislative elections, Megawati Soekarnoputri actually had a very high chance of being elected as the president of Indonesia. However, in the end, the elected president, Abdurrahman Wahid, was chosen based on the election results by the MPR. Thus, the victory of the PDIP in the 1999 parliamentary elections led by Megawati did not guarantee her presidency.

Therefore, the researcher assumes that every electoral system will have implications for the mechanisms of conducting elections. Thus, an electoral system based on electoral regulations directly impacts the fundamental conception of elections as mandated by the constitution, which in turn affects the technical organization of elections, influencing the process and outcomes of elections in terms of quality and budget financing for the implementation of the elections themselves.

The failure of democracy is caused, first, by anomalies in the democratic system that are only procedural and formal and not implemented substantively. Second, the behavior of actors in the practice of democracy is only controlled by political elites, creating an oligarchic practice of democracy. (Mariana & Puskarina, 2008:13) Next, looking at the various electoral processes that have been carried out, it can be seen that the public's understanding of elections is still very low, and even the people or voters tend to make their choices emotionally rather than substantively.

Hamdan Zoelva conceptualizes the realization of a proper election in accordance with democratic principles, thus the conduct of elections must have a good electoral system design, which includes subsystems in elections such as electoral regulation, electoral process, and electoral law enforcement. (Wijayanti & Purwaningsih, 2015:13) Based on that conception, the meaning of electoral regulation or election regulation is all provisions or rules regarding elections that are in force, binding, and serve as guidelines for organizers, candidates, and voters in fulfilling their respective roles and functions. Electoral regulations or the Election Law serve as guidelines and the foundation for every electoral activity conducted every 5 (five) years in Indonesia. The electoral process or the election administration system is all activities directly related to the implementation of elections, which are a follow-up to legal and technical legislative provisions. Lastly, there is the issue of Electoral Law Enforcement, which involves the enforcement of electoral laws, whether political, administrative, or criminal.

#### 4. CONCLUSIONS

Based on the analysis and discussion presented, the general election system for the President and Vice President in Indonesia before the Amendment of the 1945 Constitution used a representative system organized by the People's Consultative Assembly (MPR) as stipulated by the 1945 Constitution. Whereas after the reform and the amendment of the 1945 Constitution, the system of filling the positions of President and Vice President is conducted directly by the people. The construction of the system for filling the positions of President and Vice President within the framework of constitutional democracy is that the right to vote and be elected is a constitutional right of the people. However, the practice of filling the positions of President and Vice President post-reform shows an implementation that is merely procedural, conducted every 5 (five) years without understanding the substantive essence of the Presidential election. Therefore, the majority of votes given by the people only serve as a legitimacy of power supported by the majority voice alone.

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