

## CITIZENSHIP AND ELECTION ADMINISTRATION: STUDY CASE IN INDONESIA

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### ABSTRACT

*This paper is on Citizenship, in which it will discuss the administrative query and the political concern especially when any particular country preparing for the election. This is significant in term of seeing that actually citizenship is the tool to build democracy. Citizenship often seen as administrative matters, but to political discourse, it is very closely connected to the use of political rights. In the case of Indonesia as for example, the Election Commission of the Republic of Indonesia was accused to have inaccurate voter list that creates a possibilities to cheat election. Even though the accusation was not approved by constitutional court, but then people aware that there is a serious problem relating with citizenship. The main arguments offered by Election Commission were as in the following arguments: 1) the bad population data as the main source of potential voter list provided by government, due to difficulties in recording people mobility such as migration (illegal migration) 2). Citizen identity card that doubled/tripled or more, therefore the recording of people data based on issuing ID has made the population data is administratively ambiguous. 3) Other technical matters such as budget, human resources, system, etc.*

**Keywords:** citizenship, election, administration

### INTRODUCTION

Election in democratic country such as Indonesia has been implemented since long time ago, since 1955. Even though the management of election in the first election is not complicated has been shown nowadays elections, the election in 1955 can be done very smoothly. After New Order era, Indonesia is stepping into Reformation era in which many things are different from the democratic practice during New Order. The complexity of electoral management risen up since the election 1999 where the commissioner were representative of political parties. Therefore, in election 1999 Indonesia has 53 election commissioners consists of 48 persons representative of political parties and 5 persons as representative of government. Election in 2004 is the first time election ever for Indonesia to have a direct presidential election. The election management, especially relating to the management of voter list in election 2014 is becoming one of hot topic to be discussed. In 2004, the voter list was managed by election commissioner. During that time, election commissioner has a good coordination with national Statistical Bureau to data the Continuous Data on potential voter list. Therefore, everything related to voter management for election is on the hand of election commission. Unlike what was happening in 2009 election, where election commission has to execute the basic data provided by government. Then, the problem is started. Problem lays on the complexity in managing voter list based on population data provided by government. Many people have just noticed that their status of citizenship as well as their data record is very significant in determining the future of politics in Indonesia.

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Furthermore, actually not many people aware that there are much closer ties between citizenship data and democracy. Some people may argue that citizenship is just administrative matters whilst political scientist sees that citizenship is about political right. The one who see that citizenship is just about administrative matters will see that citizenship is about identity creation and administrative record. Therefore, those who are categorized in this group will see about whether you are recorded at the citizen of certain village/town/region. After that, then it is about how data is utilized. No such intersection between administrative queries with political dynamics.

## **ADMINISTRATIVE PERSPECTIVE**

The administrative perspective will analyzed the collection of data, the creation of data, recording of data as well as how data is utilized. In this 2009 election, data is taken from population data in which it is supposedly recording all of the population data throughout Indonesia and also covering data of the Indonesian citizen living abroad. The problem was existing due to the not up dated population data caused by people mobility from village to town, from town to other town or from inside the country migrate to other country.<sup>ii</sup>

As yet to be exposed by many media news, that the sources data for Election is based on the population data gathered by government, respectively the Ministry of Home Affairs. From the population Data, the government excerpts the data and makes it as Population Data for Potential Voters. The potential voter list above is then to be submitted to General Election Commission and that was already done in the 5th April 2008.<sup>iii</sup> Though the General Election is taking place on the 5<sup>th</sup> April 2009, but according to the law, the government has to submit all the potential voter list to general election commission exactly one year in advance. Therefore, the government has submitted the above potential voter list to the General Election Commission by the 5<sup>th</sup> April 2008. However, the problem is then started. The General Election Commission said that the data submitted by the government is not perfect. During the data submission, the General Election Commission is not checking on the data contents, rather it is like ceremonial formality. Therefore, the General Election Commission faced the problem caused by the incomplete data.

From the government point of view, the data that they collected was the data collected by the branch office in each regency/city level. Therefore, they are sure that the data collected is in a good condition. The government denies that the data given to General Election Commission is not in a good quality.<sup>iv</sup> According to the government point of view, the government has prepared the potential voter list (DP4) through such process in which this process also involving the conversion of population data (SIMDUK to SIAK), Continuous Voter list designed for election 2004 (P4B), plus short bio (Form 101) as in the following scheme:

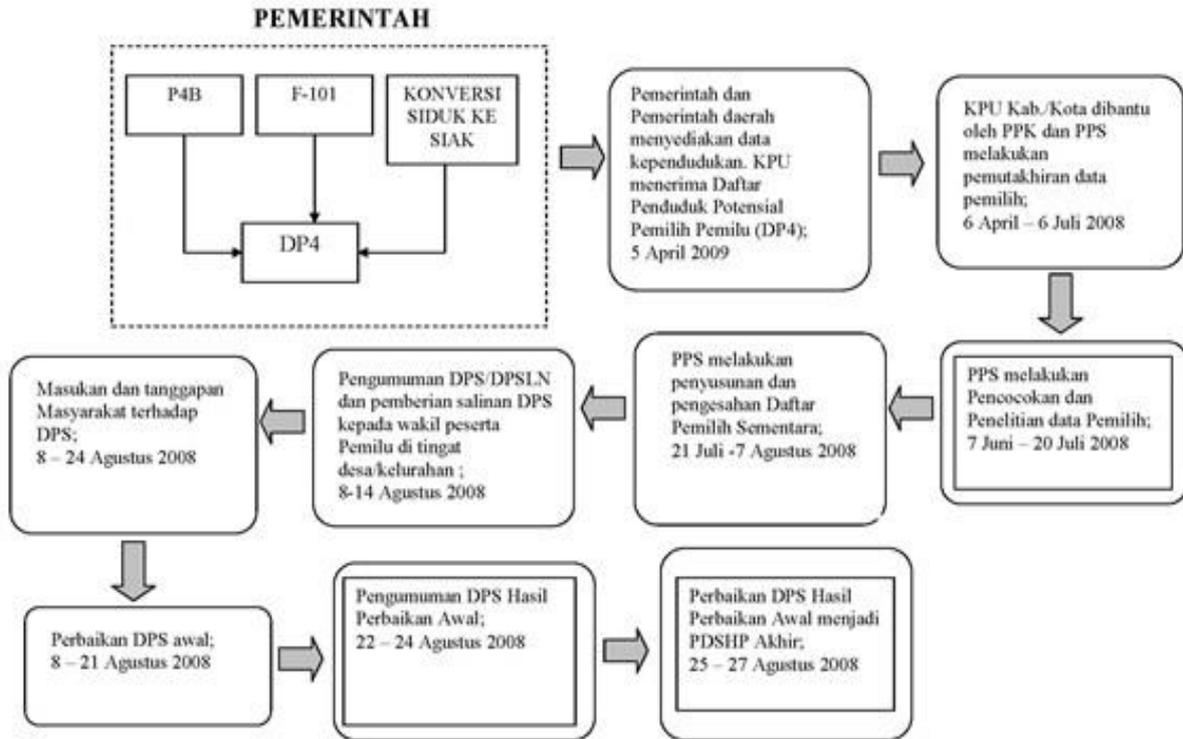
So, basically, from the government point of view, they try to collect and compile as much as they can in order to have the potential voter list, then it will be submitted to General Election Commission in due time.

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<sup>ii</sup> See news on how population data is not compatible with the need of Election Commissions. See for example <http://www.hukumonline.com/berita/baca/1t4b3c5d4990d94/kisruh-dpt-noda-tercecer-di-pemilu-2009>

<sup>iii</sup> According to the law no.10/2008, the government should give the potential voter list data that emulated from the population data to the General Election Commission one year prior to the election.

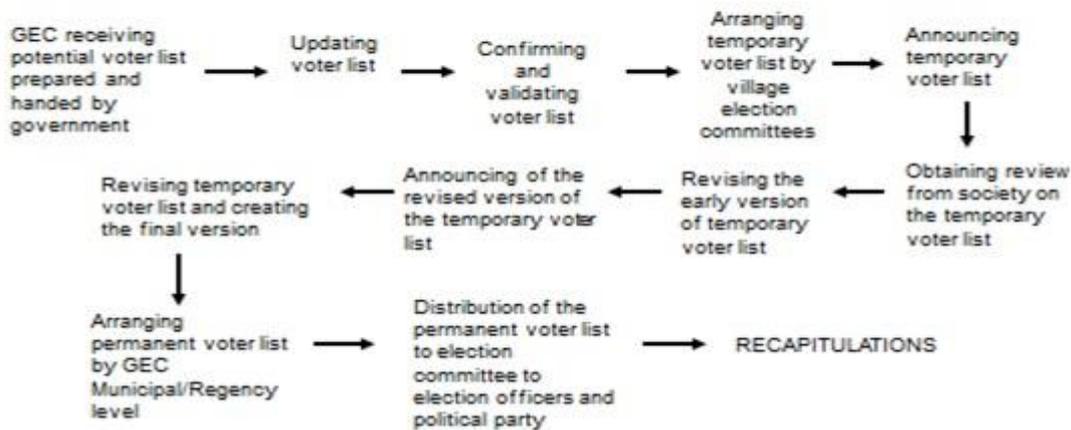
<sup>iv</sup> See the news on how some youth unable to cast the ballot due to their name were not on the voter list. <http://lipsus.kompas.com/grammyawards/read/2009/07/02/15470945/Tak.Terdaftar.di.DPT..Alasan.Utama.Pemilih.Pemula.Absen> Nyontreng.



**Political Perspective**

Apart from the administrative perspective, hence we should notice that the voter list preparation, voter list creation and voter list utilization are part of how state should organize and protect people’s rights. According to the law on legislative election number 10/2008, it said that after receiving the potential voter list from the government, the General Election Commission /GEC) has to update the voter list in order to have a complete, comprehensive, up to date and valid voter list. Therefore, the General Election Commission has done the process as outlined below:<sup>v</sup>

**SCHEME.....**



<sup>v</sup> The Scheme below is taken from the KPU/GEC regulation on Voter List Update 2008

After the completion of the above process, it is supposedly that the voter list is ready to be used for election. However, due to severe problems in the process within the government during the collection and creation the potential voter list taken from the population data, as well as the process within the General Election Commission.

### Theoretical perspective

From the theoretical point of view, it can be seen that many streams of theoretical insights will see the process of citizenship and identity differently. Liberalism: tend to see people as individual that own dignity to do something with their lives, freely. Therefore, this perspective quite rejects the state interference in the lives of citizen. Aspect of liberalism includes: individualism, freedom, reason, equality, toleration, willing agreement, constitutionalism.<sup>vi</sup>

While on the other hand, Conservatism will tend to see human imperfection that requires a present of strong state, enforcement of strict law and stiff penalty. Aspect of Conservatism includes: tradition, pragmatism, Organism, hierarchy, authority, property. Therefore, the idea of reform will be impossible in such way. They think that the government should be preserved in one way or another, because they are permanent machinery and timeless.<sup>vii</sup>

Apart from that, Socialism will tend to see that social structure creates inequalities of power that in turn creates injustice. Therefore, it requires state to become a necessary means to control over the social structure. Element of Socialism: Community, Brotherhood, social equality, need, social class, common ownership.<sup>viii</sup>

Different from the above theoretical insight, Libertarian: tend to see people as individual who has political rights, who can decide as to whether they will exercise power by their individual political rights or not. State is present to assure the manifestation of the people's rights.<sup>ix</sup>

### Indonesia's Experience

In discussing the problem of Citizenship, herewith the context of discussion will be in 2009 election in Indonesia, especially when Indonesia should implement election. In this election, the Indonesian General Elections Commission has to prepare the voter roll that had to be used for election (both parliamentary and presidential election). The voter roll is basically the data that includes the verification of the citizenship status, in which later on it will be converted into the voter list for election.

According to the law, the General Elections Commission have to received data of population prepared by government. In this case mostly be handled by Ministry of Home Affairs (MOHA), while people who live overseas has to be recorded by Ministry of Foreign Affairs (MOFA) through Indonesian embassies and Consulates in 117 countries

However, the process of collecting data is not the simple matter. Many people believe that their name is recorded by the government authority. Some of them also believe that so far,

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<sup>vi</sup> See the development of liberalism as can be seen from the book of Ronald Beiner, *Liberalism, Nationalism and Citizenship: Essay on the problem of Political Community*, UBC Press, Vancouver, Toronto, 2003, p.4

<sup>vii</sup> See the account on the Conservatism at Philip e. Agre, *What is Conservatism and What is wrong with it?*, <http://polaris.gseis.ucla.edu/pagre/conservatism.html> accessed on the 3rd July 2012, 16.00

<sup>viii</sup> See Preston King on the Introduction Chapter, *Socialism and the Common Good, New Fabian Essays*, London and New York: Routledge, 1996, p.xi

<sup>ix</sup> See Pete Dwyer, *Understanding Social Citizenship: Theme and perspective for policy and practice*, Bristol: Policy Press, University of Bristol, 2003

they do not have problem with their voting rights, therefore, this time, they hardly check as to whether their name is not the list or not. The fact says that the problem of voter list might be started from the very beginning of the collecting data from the society. Therefore, many people were not aware that they were changing regulation that inquires them to be actively in registering themselves for the purpose of election.

MOHA and MOFA encounter difficulties in doing their administrative procedure to record people's data by accurate, comprehensive current. This is due to the people mobility from their original residency to other residency in different area, from town to different town or from inside the country to outside the country. This mobility may cause the invalidity of population records. Therefore, when the population record is converted into the potential voter list, by considering the age of the population over 17 years old at least, there are some problems occurred.

As stipulated by the law, the data handed in to Election commission is supposed to be the good one. Then, the elections commission will only need to update the data for election purpose. As initially stated earlier, the problem of data invalidity occurred as a consequence of inability of the government to record any people mobility and actually many other factors. To Ministry of Home Affairs, they actually were implementing the program of collecting the Form 101, which is the short bio of the citizens. However, this program is assumed to be part of the specific program sought by the government to give assistantship to the needy.<sup>x</sup> This program is partly heard that the filling of the Form 101 is part of the direct assistantship due to the fact that not many people know the program, and not nationally announce. Therefore, only few were filling the Form 101. Another problem is stated to happen due to inaccurate record of people mobility as well as mortality or changing statutes of the military or police becoming civilian. In Indonesia, the military and police officers were not allowed to cast the ballot. Therefore, their name are not supposed to be in the voter list, unless they change their military/police officer status into civilian or they retired.

In the law also says that the update data aimed at matching the criteria of right to vote. As has been stipulated by the law No.10 year 2010, it stated that the one who has right to vote is the one who can fulfill the requirements such as at least 17 years old or married/divorce though their age is not yet 17 years old.<sup>xi</sup> Other required by the law on who is the Indonesian who able to vote is they are not military or police officers, they must be civilian and their right to vote is not withdrawn by the law.<sup>xii</sup>

### **The Case of Voter List in 2009 Election**

During the 2009 parliamentary election, the case of voter list has been brought up to question, especially when Elections Commission revised the total number of people who eligible to vote. During the parliamentary election, many people were reported to be unable to cast the ballot. Some political parties were accusing the General Election Commission due to this factor. Though, there were very least data on how many people were unable to cast the ballot, the accusation to the General Election Commission were kept on.<sup>xiii</sup>

To response to such accusation, the General Election Commission argues that this is due to imperfect potential voter list sources handed by the government on the 5<sup>th</sup> April 2008, exactly

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<sup>x</sup> Some people argue that the Form 101 is only targeting the needy for the government Direct Assistantship

<sup>xi</sup> See the verses of *Law No. 10 year 2008 on legislative election*; refer specifically on the verses on voter requirements.

<sup>xii</sup> Law No.10 year 2008, *ibid*.

<sup>xiii</sup> See <http://kabar24.bisnis.com/read/20110614/15/37450/perlu-pansus-soal-kursi-haram-dpr>

one year prior to election.<sup>xiv</sup> Other think, the accusation is also derived from the revision of the permanent voter list that has been announced due to the revision of data from Papua, West Papua and data from overseas representative, which have not yet included into the plenary decision of the final voter list.<sup>xv</sup>

However, some accusations arise as if that it is connected with incapability issue of the election commission, sub ordination issue of the elections commission towards government and impartiality of elections commission that is questioned. The incapability were blown up due to none of the election commissioners were having a background in administration or statistic or law. Therefore, the accusations were addressed to the absence of the background education from those three aspects namely administration, statistics or law.<sup>xvi</sup> On the other hand, the sub ordination issue of the General Election Commission to the eyes of government due to many coordination meeting that have to be held due to many implementation procedures. However, the coordination meetings were always to be thought as part of sub ordination. The journalist said that the General Election Commission is not necessary to come to visit the Ministry of Home Affairs; rather the General Election Commission would be better if they could execute the program by themselves.<sup>xvii</sup>

The case of voter list is harshly blown after Presidential election in which it brought up by the success team of Mega-Pro (Megawati-Prabowo Subianto) in which it said that there were 28,8 million votes acclaimed to belongs to Mega-Pro, accusation that elections commission waived the people's right to vote by having a very bad voter list and the changing number of polling place to be compared with the number of polling place during parliamentary election. The accusations were not considering the changing formula of creating polling places. They just ignore the fact that there are changing capacity of voter list to be accommodated in each polling place. Therefore, when the number of polling place is different from the number of polling place during legislative election, then they start to complain.

The response on the bad voter list provided by the General Election Commission, the Elections commission argued that there was immense difficulty dealing with updating process of the population data. One thing that obviously seen is that the law is not considering the geographical difficulty of the residency of voters to where the voter list updaters has to reach during voter list updates. The accusation was not also considering the time allocated by the law to have the voter list update. The general election commission has to update the voter list data handed by the government right away. They also did not considering the elapsed time between the ratification of the law and the implementation of the law. The time elapsed between the ratification and the implementation of the election law is extremely limited (3 days), so that election commission has no time to exercise the role

On the sources data for making the voter list as has been said earlier, was taken from the population data. However, the potential voter list that has been submitted by the government

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<sup>xiv</sup> The General Election Commission on the 5<sup>th</sup> April 2008 was receiving about 70.000 files of data handed by the government (Ministry of Home Affairs).

<sup>xv</sup> The Indonesian representative offices in 117 countries have to submit the voter list of Indonesian citizen living abroad. At [www.kpu.go.id](http://www.kpu.go.id)

<sup>xvi</sup> The election commissioner at that time were from religious education background, political sciences, agriculture and education.

<sup>xvii</sup> The news in the newspaper on the 24<sup>th</sup> October 2007 as for example, mentioning that the General Election Commission is not necessary to come to the Ministry of Home Affairs office. At <http://www.kemendagri.go.id/news/2007/10/24/usai-dilantik-anggota-kpu-konsultasi-dengan-mendagri>

to the General Election Commission was bad. The bad population data provided by MOHA as well as the incompatibility mode of the data to election needs. There were also evidence that the General Election Commission has less support to general elections commission. It can be seen from financial aspect, as well as people's participation towards the program sought by the general election Commission, stakeholder participations in mobilizing people to check their name prior to permanent voter list is announced.

### **Constitutional Court decision**

On the case of imperfect voter list that has been brought to the constitutional court, the Constitution's court release some reasons to reject the accusation to Elections Commission by Mega Pro success team as in the following:

- The party which brought the case cannot acclaimed that 28,8 million votes belongs to them since voting is remain a secrecy of the people. No body can imposed on the prediction towards people choice
- The elections commission cannot be accused to commit a crime of waiving people's right to vote since there is no strong evidence of it (not by design)
- The difference number of polling place during presidential election compare to that of parliamentary election is a consequence of different formula of establishing polling place as in the law says that one polling place can accommodate up to 500 voters for parliamentary elections, whilst for presidential election can accommodate up to 800 voters in one polling place

Though the accusation is ceased the constitutional court decision, the General Election Commission were having a serious evaluation on the voter list creations through the creation of specific task force to study the voter list case. From series of activities borne by the voter list initiative group, the general election commission is identify some problems that should be dealt during the time of creating, recording or updating the people population data related with citizenship status. The study found out that there is incompatibility data gathered by the government and the data that really needed by the General Election Commission. Therefore, the Voter list initiative has formulated some new interventions such as the approval of the house that has been visited and recording the people who live in the house. Other than that, the Voter list initiative also develops a voter list program that able to check double data as well of other inaccuracy. The voter list initiative group also proposes that the geographical difficulties to obtain the updated population data related with death, birth, migration status needs to be considered in revising the election law.

Other thing that identified as part of the problem of having good voter list is on the government program on creating the Single Identification Number. Then, the question is how if people do not have single Citizen's ID? What should be considered as the other identification for voters that should be recorded as the formal identification? Something to be noted that this other identification should avoid the multiplying affect to the voter list based on the Single Identification number. During the 2009 election, there was an ongoing process of having single ID program held by government (MOHA). But the result of the above project was not meant to be prepared for the 2009 election.<sup>xviii</sup>

From the other related government institution's point of view, it found out that there were many unrecorded migration. Therefore, migration record should be up dated based on current

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<sup>xviii</sup> Statement of the Director General of Civil administration of MOHA during the Public Hearing with MP's related to the MP's special task Force Committee, 2009 at <http://news.detik.com/berita/1190083/kpu-akui-kesalahan-dpt-di-13-provinsi?nd993303605>=

status, and there should be an effort to combat illegal migration.<sup>xix</sup> Besides that, the government of Indonesia has not yet having the online system / unavailability of system that enable automatic status up dated. Therefore, if there is availability on the on line up dated system that updated continuously, it will propose to make the effort of having good voter list in better condition.

## **CONCLUSION**

From the above discussion, it can be seen that we should have legal foundation toward any action relating with the creation, recording, updating the data especially dealing with the status of citizenship. Therefore, we could have a formal legitimacy in obtaining personal data from people. Moreover, in order to have a better voter list data that suit best with the need of the General Election Commission's requirement, the General Election Commission especially will need a specific law that regulates the continuous process of updating data, throughout the year.

For a sense of belongingness to the data and to the process of obtaining the good data for government's political program, therefore we should be better to create people awareness on the updated status of citizenship. This is part of the assurance of the people's right that supposed to be preserved by the state. Above all, we can conclude that citizenship is very important aspect of both administrative and politics. Administratively, state has obligation to record the people based on citizenship status, therefore state need the accurate, comprehensive, and up dated data. Politically, citizenship is about political right: right to vote and right to be elected. Without good citizenship data, state will fail to accommodate and ensure the implementation of people's right.

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<sup>xix</sup> See Public Hearing with MP's in 2009. At <http://www.pelita.or.id/baca.php?id=70193>

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