



# THE 3<sup>rd</sup> INTERNATIONAL CONFERENCE AND CALL FOR PAPER

“Legal Development in Various Countries”



**IMAM AS SYAFEI BUILDING**  
Faculty of Law, Sultan Agung Islamic University  
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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## **The 3<sup>rd</sup> PROCEEDING**

“Legal Development in Various Countries”

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## INFORMATION OF THE CONFERENCE AND CALL PAPER

**WORLD CLASS ISLAMIC UNIVERSITY**  
**UNISSULA**  
SULTAN AGUNG ISLAMIC UNIVERSITY

# Welcome to Participants on International Conference

## "LEGAL DEVELOPMENT IN VARIOUS COUNTRIES"

*This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. And focusing on the development of law in both developed and developing countries and its role in shaping a good future.*

**KEYNOTE SPEAKER:**  
**Prof. Henning Glaser**  
Thammasat University, Thailand

**IMAM AS SYAFEI BUILDING**  
Faculty of Law, Sultan Agung Islamic University  
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia

**SPEAKERS :**

1. Prof. Shimada Yuzuru  
Nagoya University, Japan
2. Prof. Dr. Ruzian Markom  
Universitas Kebangsaan Malaysia, Malaysia
3. Prof. Dr. I Gusti Ayu Rachmi, S.H., M.M  
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Indonesia, September 05<sup>th</sup> 2017

**WORLD CLASS ISLAMIC UNIVERSITY**  
**UNISSULA**  
SULTAN AGUNG ISLAMIC UNIVERSITY

# International Conference

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Semarang-Indonesia

**FACULTY OF LAW**  
Sultan Agung Islamic University

5  
September  
2017

**SPEAKERS :**

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This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day: Tuesday

Date : September 5<sup>th</sup> 2017

Time : 08:00 - 15:00 pm

Place : Imam AsSyafei Building 3<sup>rd</sup> Floor

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

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AND CALL FOR PAPER  
“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”**

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## PREFACE

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Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegan, Ph.D from Sorbone University, Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM from SebelasMaret University, Dr. Zaharudin from Universiti Utara Malaysia, and Dr. Anis Mashdurohatun, S.H., M.Hum from Sultan Agung Islamic University.**

This is our third International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner to be discussed as guidelines to exchange and discuss views on the most important recent on Legal Development happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fourth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, September 5<sup>th</sup> 2017

**Chairman of the Committee,**



**Dr. Anis Mashdurohatun, S.H., M.Hum**  
**NIDN : 06-02105-7002**

## GREETING FROM THE DEAN OF FACULTY OF LAW

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*As-salamu'alaikum Wr. Wb.*

Thank to Allah SWT is an absolute act that we must say after conducting the International Conference and Call for Paper by theme: “**Legal Development in Various Countries**” which is held by Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on September 5<sup>th</sup> 2017.

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. In the end, as in contract theories, no monist view of legal development possesses the explanatory power needed to understand how law has come to be and where it may take us in the future. What we do have is a foundation built on at least two millennia of legal history. The intellectual starting point for this project is Nathan Isaacs' unfinished work on a cycle theory of legal development. His view of legal development takes issue with Henry Sumner Maine's thesis that development in advanced legal systems is progressive in nature. And, more importantly for the current undertaking, that this progression is linear in nature. Instead, Isaacs' review of thousands of years of Jewish legal development indicated that legal development perpetually progressed in cycles.


Therefore, to discuss more about legal development or law reform, Faculty of Law, Sultan Agung Islamic University is confidence to conduct a conference by the theme “**Legal Development in Various Countries**” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who have contributed in this event, so that this international seminar ran well.

*Wassalamu'alaikum Wr. Wb.*

Semarang, September 5<sup>th</sup> 2017

Dean,



**Prof. Dr. Gunarto, SH, SE, Akt, M.Hum**  
NIDN.062004670

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**URGENCY OF VOTERS PARTICIPATION ON THE REGIONAL HEAD  
ELECTION IN THE STATE OF DEMOCRACY  
(Study: Voters Participation On Governor and Vice Governor Election  
in Indonesia in 2015)**

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**ABSTRACT**

Indonesia is a democratic Country in which the head of the region's democratically elected based on the principles of direct, public, free, confidential, honest, and fair. In 2015, Indonesia was the first country that implemented direct local elections and simultaneously in nine provinces and 260 districts / cities. As the formulation of the problem, the author has studied how the level of voter participation on the Governor and Vice Governor Election in 2015 in Indonesia and the importance of voter participation on the Governor and Vice Governor Election in the state of democracy. The method used is normative empirical or non-doctrinal legal research. The data used are secondary data included primary legal materials, secondary law and tertiary legal materials. Analysis of the data used qualitatively. The final conclusion, the level of voter participation on the Governor and Vice Governor in the Year 2015 in Indonesia could be considered still low because it has not reached the target of the Electoral General Commission, is 75.5%. Supposedly, established democracies, the electorate consistent participation at 70 %. Otherwise it is clear that voter participation on the Governor and Vice Governor Election is important in a democracy so that it would not undermine the legitimacy of the election.

**Keywords:** Democracy, Elections, Voter Participation.

**Introduction**

Indonesia is a democratic country which constitutionally can be seen on the Article 18 paragraph (4) of the Constitution Republic of Indonesia 1945 means that governors, regents and mayors respectively as the Head of Provincial Government, District and Municipal elected democratically. In addition to the constitution, Indonesian ideology also illustrates that Indonesia is a democratic country as been stated in the fourth Sila of Pancasila democracy is leding by the wisdom in the consultative / representative. The fourth of Pancasila contains the value of democracy that reflecting to the concept of democracy.

As it grounded in the history, The local elections in Indonesia had adapted to the dynamics law provisions and vice versa where the law may also been modified according to the needs of the election. Earlier, filling the post of the region head was conducted by the Parliament through elections simultaneously (Act No. 5 of 1974), furtherer provided that the head of the region is elected democratically based on the principles of direct, public, free, confidential, honest, and fair (Law No. 32 of 2004). Then, in 2015 Indonesia was firstly organizing local elections directly and simultaneously.

Referring the law of local<sup>1</sup>elections, getting to the polls simultaneously nation wide then carried out in several waves of which the first wave was in December 2015, the second wave was in February 2017 , the third wave will be in June 2018. Furthermore, in September 2020 for the collection of election results in 2015 and for the national ballot will held simultaneously in November 2024. Prior to 2015, local elections were not conducted simultaneously in Indonesia but based on the tenure head of the region in their respective regions. This is the one that have distinguished the local elections prior in 2015 by the local elections since 2015.

The Regional Head Election directly and simultaneously for the first time has been conducted in 9 provinces and 260 districts / cities. Based on the results of the evaluation implementation for the election outright in 2015, acquired that the data as followed: The first, updating of voters data were the one of the simultaneous election activities that very complex and crucial directly affect to the other stages of the elections. The second, level of voters for the general election that participated in the 2015 simultaneously remained low. Based on the data to the General Electoral Commission, the voters turnout were only about 64.23 percent, or lower than the General Electoral Commission target is about 75.5 percent. The third, to support the "simultaneity" of the elections, need a perfect principle simultaneously based on the spirit of efficiency and effectiveness. The fourth, in the revised of law on the elections, it should be added regarding to the regulation; prohibition for incumbent to perform the replacement of the officials and a ban in using the programe and the acts of local governments for the activities of Elections; guaranteed that the participation of political party in participating the election in the 2014. Local elections simultaneously as a manifestation of the constitutional rule of Article 18 paragraph (4) of the 1945 Constitution; as well as security and the nation unity for the next election there will not be a conflict simultaneously broad horizontal (Harahap, 2016).

Based to these results, it's been explained that the voter turnout in the year 2015 for the general election simultaneously remained low. Otherwise the participation is a core part of the political democracy as the opinion that the "essence of political democracy has three dimensions: competition, participation, as well as civil and political freedoms" (1993: 39).

Therefore, the author is interested in doing a study related to the urgency of voters participation in local elections of the democracy. For this study, the author used the voters turnout data in the Governor and Vice Governor Election in the year 2015. The formulation of the problem is how the level of voter participation for the Governor and Vice Governor Election in 2015 in Indonesia? and Is it important that turnout of the Governor and Vice Governor Election in the state of democracy?

## **Research Methods**

The research method used is a normative legal research, which is always synonymous by the research literature that using the documents as research material. The data used is secondary data which is including primary legal materials that legislation crustaceans such as the Constitution and the law of local elections, secondary law which is researching the results that related to voters participation and democracy in the form of the journals and other scholarly work and tertiary legal materials such as dictionaries and Indonesian dictionary law. Meanwhile, The data analysis used is the qualitative data analysis.

## **Results and Discussion**

The definition of Indonesian dictionary, democracy is based, namely de.mo.kra.si [n Pol] (1) (form or system ) of government that all citizens are participating to govern through

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<sup>1</sup> See Article 201 of Law Number 10 Year 2016

representatives; the government of the people. That is in a democracy needs participation of the people or the people govern in a system of government although through the representatives. This may be analogous in choosing the representative of the leader or the head of the region, in addition the role of the government and the organizers of the election as well as other stakeholders would need also community participation as voters in determining the leadership for the region. Also according to Asshiddiqie in Aziz wrote that "in the sense of more participative democracy is even referred to as the concept of the power, by, for and with the people. That is, the power is in essence recognized comes from the people, and because the people who actually define and give directions and the real organizing national life "(2016, h.66).

### 1. Voters Participation in Rate for The Governor and Vice Governor Election in the Year 2015 in Indonesia.

To see the conditions and level of voters participation for the Governor and Vice Governor Election in the Year 2015 in Indonesia can be described in the following tables:

**Table 1.1.**

#### Number of Voters for The Governor and Vice Governor Election in the Year 2015 by Gender

No	Province	Number of Voters		
		(DPT, DPTB1, DPPH and DPTB2)		
		Male	Female	Total End
1	West Sumatra	1,749,242	1,795,834	3,545,076
2	Jambi	1,257,722	1,225,704	2,483,426
3	Bengkulu	736.008	714.406	1,450,414
4	islands Riau	628.416	606.119	1,234,535
5	Central Kalimantan,	1,041,391	953.284	1,994,675
6	South Kalimantan	1,454,713	1,442,344	2,897,057
7	North Borneo	237.584	210.053	447.637
8	North Sulawesi,	1,005,280	980.599	1,985,879
9	Central Sulawesi	1,014,398	982.356	1,996,754

Source: Processed DataKPU RI 2016

Select or referred in table 1.1. The above is an unqualified voters to vote for The Governor and Vice Governor Election in 2015 in Indonesia.

**Table 1.2.**

#### Number of Users Chosed the Right for the Governor and Vice Governor Election in the Year 2015 by Gender

No	Province	Number of Users Suffrage		
		(DPT, DPTB1, DPPH and DPTB2)		
		Male	Female	Total End
1	West Sumatra	937.901	1,141,162	2,079,063
2	Jambi	818.351	841.742	1,660,093
3	Bengkulu	481.041	488.027	969.068
4	Riau Islands	339.986	342.548	682.534
5	Central Kalimantan	528.304	514.296	1,042,600
6	South Kalimantan	940.402	981.544	1,921,946

7	North Borneo	142.079	135.507	277.586
8	North Sulawesi	630.419	644.203	1,274,622
9	Central Sulawesi	698.168	693.945	1,392,113

Source: Data Processed KPU RI 2016

User's Right to Choose that referred in table 1.2. The above is a qualified voter and exercise their voting rights for the Governor and Vice Governor Election in the year 2015 in Indonesia.

**Table 1.3.**  
**Rating of Participation Voters for The Governor and Vice Governor Election in the Year 2015 by Gender**

No	Province	Percentage of Participation of Voters (%)		
		Male	Female	Participation Level
1	West Sumatra	58.65	53.62	63.54
2	Jambi	66.85	65.07	68.67
3	Bengkulu	66.81	65.36	68.31
4	Riau Islands	54.10	56.51	55.29
5	Central Kalimantan	52.27	50.73	53.95
6	South Kalimantan	66.34	64.65	68.05
7	North Borneo	62.01	59.80	64.51
8	North Sulawesi,	64.18	62.71	65.69
9	Central Sulawesi	69.72	68.83	70.64

Source: Processed Data KPU RI 2016

From table 1.3. The above can be seen that turnout for the nine provinces that conduct the Governor and Vice Governor Election in The Central province of Sulawesi only reached 70.64%. This means that the level of voter participation for the Governor and Vice Governor Election in the Year 2015 in Indonesia can be considered still low because it had not reached the target of the General Electoral Commission.

## **2. The importance of Voters Participation for the Governor and Vice Governor Election in the Democratic Country**

Participation in the wikipedia definition: involvement of citizens in all phases of the policy, starting from the decision making up to the ratings decision, including the opportunity to participate in the implementation of the decision. Meanwhile, according Budiardjo "Political participation is the activity of person or group of people to participate actively in political life, namely by choosing the country's leaders directly or indirectly influence government policies(publicpolicy)"(2009, h.36). Related to these activities, Budiardjo in writing Janah argued that "this activity includes actions such as voting in elections, attended to the rally, member of a party / group interests, to make contact(contacting)with government officials / MPs and so on" (2012 ).

Electoral Smart Book in written that "participation is the heart of the elections and democracy. Without participation, elections and democracy will lost meaning. Participation ensuring good fortune of the people, the government, by and for the people to find concrete form "(2015, p 34). One form of participation is the great concern in the Governor and Vice Governor Election that voter participation in determining the future leader in the region.

According to Latif "The high voter participation rate is a reflection of the quality implementation of political contestation". Meanwhile, related to the low voters participate in



the Electoral Smart Book is written that " the low participation may undermine the legitimacy of the election". low participation also makes the need of polling and counting have been provided according to the number of voters at polling stations (TPS) to be in vain. The activities of the election becomes ineffective and inefficient "(2015, p 20). Based on the formula Economic Intelligence Unit (EIU), a well-established democracies, the electorate consistent participation at 70 percent.<sup>2</sup> So it is clear that voter turnout in the Governor and Vice Governor Election is necessary in a democracy. By the high level of voter participation, in addition the political contestation qualified and strengthen the legitimacy of the elections and realize elections is effective and efficient, can also motivate people to participate in politics and government<sup>3</sup>,

### **Conclusion**

One dimensions of core in democracy is participation, and one form of participation in the Governor and Vice Governor Election is turnout. Based on the results of the study, concluded that the level of voter participation in the Governor and Vice Governor Election in the year 2015 in Indonesia is still considered low because it has not reached the percentage that settled by the General Electoral Commission. Voter participation is important to be well-established in democracies.

### **Suggestions**

To increase voter participation need the attention from the government and other relevant parties to devise a policy for improving the quality of participation means not tainted by fraud in the organization of the election as intimidation, political campaign cash or in the form of black campaign and so on. In addition, there is expected to further studies to determine the extent to which the importance of voter participation and strategies to improve the quality of the electoral participation.

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<sup>2</sup> This is also conveyed by Laza Kekic, director of the EIU (Economist Intelligence Unit) in "The Economist Intelligence Unit's index of democracy" (2007)

<sup>3</sup> With the participation of the community at the time of the election would provide a sense of conviction and passion for voters with candidates elected leader of their choice.

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