

The Citizenship Criterias for the Candidacy in Indonesian General Election: The Formality of Validation Process

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Abstract

Democracy is a system where the government should prioritize the people's aspiration in implementing the policies because the people are a source of the power itself. A good Election system is a key of a good democracy system. This article is a research result of the citizenship validation in a government election. In fact, the citizenship validation mechanism is still not available in Indonesia as some violation cases happened during the Regent Election 2020 in Sabu Raijua. This research uses qualitative method and reference study analysis approach to deeply analyze the implementation of the citizenship validation during the general election in Indonesia. In addition, the theory of system and the concept of the democracy will be also used as an analysisist so that it can give some descriptions and considerations to improve the quality of the next general election in Indonesia. The citizenship validation process also can be applied in other government administration affairs to support a better democracy implementation in the future.

Keywords

Democracy; Election; Validity; Citizenship.

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1. INTRODUCTION

General Election (Election) is a manifestation of the implementation of democracy in a certain area which takes place in a certain period (James & Alihodzic, 2020). In the constitutional context, elections have meaning as a facilitative means of forming state administrators at both the executive and legislative levels. The implementation of democracy which is understood as a form of government that originates from the people, is run by the people and aims for the benefit of the people themselves, requires the holding of elections as a means of establishing legitimacy in a government, which is a reflection of the running of a government which is implemented based on the election results.

Elections are an instrument to realize people's sovereignty which intends to form a legitimate government as well as a means of articulation of the aspirations and interests of the people (Yuliati & Widayati, 2021). Elections can be said to be a trusted means to be able to elevate the existence of the people as the holder of the highest sovereignty in the state as the implementation of the basic concept of democracy, namely a government that comes from the people, by the people and for the people (Nugraha, 2022). Elections are the most important mechanism in the modern political system in an effort to accommodate the interests of the people in selecting the best candidates for government, both at the central and regional levels (Kodiyat et al., 2020). This is in line with efforts to fulfill the three main



principles of democracy, namely people's sovereignty, the legitimacy of government and regular changes of government (Muqsitha & Wibowo, 2023).

In a democratic system, people's sovereignty is realized through various forms of community involvement, especially to determine who should run the government, including who oversees the government which is actualized in the implementation of elections (Warouw, 2023). Elections are one of the main elements in the implementation of democracy in government in a region. Therefore, the implementation of democratic elections is the key to forming a government that is in accordance with the principles of democracy itself.

In implementing democratic elections, there are at least 10 components that need to be implemented, namely (Rosanti, 2020): 1) electoral system, 2) electoral district arrangements, 3) election administration, 4) voting rights and voter registration, 5) civics education and voter information, 6) candidates, political parties and campaign funding, 7) media access and protection of freedom of speech and expression in campaigns, 8) voting, 9) election monitoring, and 10) election dispute resolution. Some of these components have their own complexities which sometimes become obstacles in the administration of elections, one of which is regarding the election system and administration at the stage of nominating election participants.

Election participants consisting of individuals and political parties are nominated through a stage starting from the registration of candidates for election contestants, selection of administrative files until then they are determined as election participants which are carried out at every level of elections, both legislative and executive elections. The obstacle that then occurs is that in the stage of selecting administrative files for candidate contestants in the election, there are several weaknesses, including in the section on verifying the legitimacy of citizenship for candidate contestants in the election. Verification of the legitimacy of citizenship is an attempt to re-examine the citizenship status of candidates for election contestants personally considering this is one of the main points of the administrative requirements for candidates for election contestants, namely the mandatory status of Indonesian Citizens.

Affirmation regarding the definition of an Indonesian Citizen is regulated through Law Number 12 of 2006 (UU No. 12 of 2006) concerning Citizenship of the Republic of Indonesia Article 4 points a-m which states that Indonesian Citizens are: (UU No. 12 Tahun 2006)

- a. Any person based on laws and/or based on agreements between the Government of the Republic of Indonesia and other countries prior to the enactment of this Law has become an Indonesian citizen;
- b. A child born from a legal marriage to an Indonesian citizen father and mother;
- c. A child born from a legal marriage to an Indonesian citizen father and a foreign mother;
- d. A child born from a legal marriage to a father who is a foreign citizen and a mother who is an Indonesian citizen;
- e. A child born from a legal marriage to an Indonesian citizen mother, but the father does not have citizenship or the law of the father's country of origin does not grant citizenship to the child;
- f. A child born within a period of 300 (three hundred) days after his father passed away from a legal marriage and his father is an Indonesian citizen;
- g. A child born out of wedlock from a mother who is an Indonesian citizen;
- h. A child born outside of legal wedlock to a foreign mother who is recognized by an Indonesian citizen father as his child and the recognition is made before the child is 18 (eighteen) years old or unmarried;
- i. A child born in the territory of the Republic of Indonesia whose nationality status of father and mother is not clear at the time of birth;
- j. A newborn child found in the territory of the Republic of Indonesia as long as the father and mother are unknown;
- k. A child born in the territory of the Republic of Indonesia if the father and mother do not have citizenship or their whereabouts are unknown;

- l. A child who is born outside the territory of the Republic of Indonesia from a father and mother who is an Indonesian citizen who because of the provisions of the country where the child was born gives citizenship to the child concerned;
- m. A child of a father or mother whose citizenship application has been granted, then or the mother dies before taking the oath or declaring a pledge of allegiance.

The problem that then arises is that in the process of selecting the administration of candidates for election contestants, they do not yet have detailed arrangements regarding verification of the legitimacy of citizenship that applies to all candidates for election contestants. As an example of a case that occurred in the Sabu Raijua Regency Regional Head Election (Pilkada) in 2020, it is known that one of the election participants, namely Orient Patriot Riwu Kore, has dual citizenship with proof of having a United States passport. Whereas in General Election Commission Regulation Number 1 of 2020 (PKPU No. 1 of 2020) concerning the Third Amendment to PKPU Number 3 of 2017 concerning Nominations for the Election of Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor Article 1 paragraph (18) states that "Prospective pairs of Candidates for Governor, Deputy Governor, Regent, Deputy Regent, Mayor or Deputy Mayor, hereinafter referred to as Prospective Candidate Pairs, are Indonesian Citizens proposed by a Political Party or Association of Political Parties or individuals who are registered or register with the Aceh Provincial KPU/KIP, Regency/City KPU/KIP, to take part in the election" (PKPU 1/2020, Ps. 1 ayat (18)).

The nomination provisions are then clarified in article 4 paragraph (1) point b, namely "Indonesian citizens can become candidates for governor and deputy governor, regent and deputy regent, and/or mayor and deputy mayor by fulfilling the following requirements: b) loyal to Pancasila, The 1945 Constitution of the Republic of Indonesia, the ideals of the Proclamation of Independence August 17, 1945, and the Unitary State of the Republic of Indonesia" (PKPU 1/2020, Ps. 4 ayat (1) poin b). It is necessary to reaffirm the regulation regarding candidacy requirements, which oblige each candidate for election contestants to have the status of an Indonesian citizen, considering that with the pre-existing regulations, it still has loopholes which result in election participants who apparently have nationalities other than Indonesia being able to contest as election participants and even had the chance to participate in the election. was appointed as Regent after winning the election in Sabu Raijua Regency in 2020 although it was later canceled through a Constitutional Court decision.

This then becomes the research background to be able to analyze more deeply about how the stages of verifying the legitimacy of citizenship in elections should be carried out? Considering that elections are the main element in a democratic system, it is important to examine the implementation of good elections, especially in terms of the nomination stages for election participants, which so far have only included Indonesian Identity Cards (KTP) as proof of citizenship of the Republic of Indonesia in the factual verification stage of candidacy. elections. In fact, as emphasized in Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia, that there are several criteria that must be met by a person before his status is declared as an Indonesian Citizen. The Citizenship Law also explains the provisions for losing citizenship and the citizenship process which should also be included in the process of verifying the legitimacy of citizenship in elections.

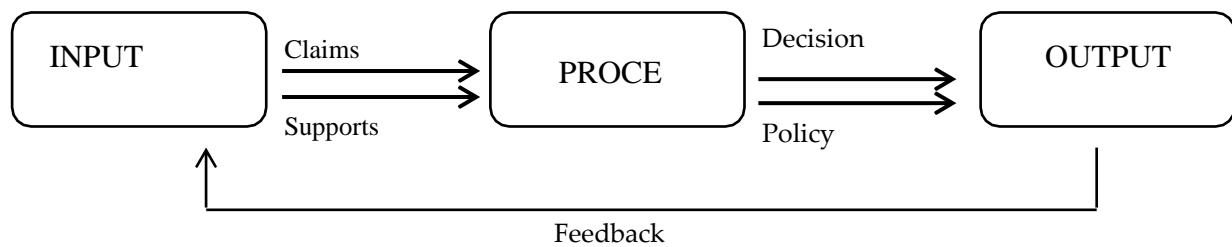
From that, this research was carried out using a qualitative approach through the literature study method which was analyzed based on system theory and combined with the concept of democracy in electoral studies. Previous research used as a reference for writing this article is "Analysis of Improvement on Verification of Citizenship Legitimacy in Elections: A Study on the 2020 Sabu Raijua Regent Election" and "Verification of Requirements for Probolinggo and Sidoarjo Regency DPRD Member Candidates in the 2018 Legislative Election 2014: Study of Weaknesses in Verifying Candidate Administrative Requirements in the Perspective of Elections with Integrity".

In the aspect of the definition of system theory, according to Shrode and Voich, the system is understood as a set of parts that are interrelated with each other and work together to achieve a goal that occurs within a certain scope (Mufidah, 2016). In the system theory initiated by David Easton, a

system consists of inputs, processes and outputs, accompanied by demands/support as well as decisions/policies that emerge along with the processes in a system (Uju, 2019).

Claims or support are part of a system that functions to reinforce input on a problem in the input stage before the problem is processed in a system. The process that takes place on a problem will provide options or choices for decisions or policies which then become the basis of the output of the implementation of the system. A system that is running well also allows for a reciprocal process for problems that reappear in the output to then be processed back into input which returns to the beginning of the system.

Figure 1. The Theory of System by David Easton Decisions Policy Feedback



(Source: Mas' oed, reformed by author, 2022)

The system used in this study is understood as a process of forming a government which is the exercise of power in a country (Borrás & Edler, 2020). The system is a pattern and consistency of subsystems, which are often automatic so that they must meet requirements, which include matters such as relevance, facts, doctrine, principles, functions and common goals. These components work as a unit to achieve corporate or government goals. They are connected and mutually support each other.

According to Easton, the structure of a system is supported by four assumptions, namely first, science needs to design or construct something systematic to combine facts or data that has been found. Second, a system must be seen as a complete system, not as a part or part that is different from other parts. Third, there are two categories of data used in research on political systems: situational data and psychological data. The personal characteristics and motivations of political participants form the psychological data, while all actions stemming from environmental influences are included in the situational data. Fourth, it is necessary to assume that the political system is unbalanced (Hoffmann & Lutz, 2021).

In formulating a system, it is necessary to start with the formation of a system structure with stages according to needs. Defining the concepts that must be studied is also important to be able to understand the phenomena of the system. The next point is to clarify which institutions will move to distribute the values applied in the system so that a system needs to be seen and understood as a whole. Formation of a system also needs to pay attention to demand or support variables so that it can produce a decision or policy that is appropriate to the workflow and function that is the goal of implementing the system (Tien et al., 2021).

2. METHODS

This research was carried out using a qualitative approach with data collection using the literature study method. Qualitative research is understood as one of the research procedures that produce some descriptive data in the form of speech or writing and the behavior of people which are understood in certain contexts and studied based on a complete, comprehensive and holistic viewpoint (Kaizuka & Rukmana, 2021). In qualitative research, researchers carry out temporary measurements in the data collection phase, qualitative researchers also try to reflect on concepts before collecting data but concept development and refinement of concepts are also carried out during or after the data collection process so that they can produce data in the form of words, actions, sounds, symbols, physical objects or visual images.

Qualitative research is often referred to as naturalistic research because the research is carried out in natural conditions (natural settings) which become the object of research developing as it is, not being manipulated by researchers and the presence of researchers does not affect the dynamics of the object (Potter et al., 2020). In qualitative research, methods and theories are combined to create a methodology which is a plan for how the research will proceed and how to combine the different elements of a particular research (Dawadi et al., 2021).

In the study of research methods, this study uses the literature study method which is a presentation of data based on literature that has been read or obtained by researchers which can be in the form of books or articles packaged in journals or papers so that they can provide information regarding the background of a research problem and become the basis for researchers to describe the results of studies obtained and relevant to the research carried out (Afrizal, 2014).

The literature study method involves collecting primary and secondary information sources, which are then classified into data so that data processing or citation of references is carried out at a later stage so that they can be displayed as study findings, abstracted to obtain all information, then interpreted to produce knowledge so that conclusions can be drawn (Thompson Burdine et al., 2021). The literature study method is a method used to develop theoretical and practical aspects through efforts to build theoretical foundations, conceptual frameworks and identifying problem formulations in research which are then studied using various literature according to the scientific field used.

3. FINDINGS AND DISCUSSION

Citizenship and the Concept of Democracy in General Elections

Citizenship is everything related to citizens who are citizens of a particular country (Miranda & Arwiyah, 2019). In relation to citizenship status for someone who becomes a citizen of a particular country, this is a reciprocal relationship related to the rights and obligations of citizens towards their country. Article 26 paragraph (1) of the 1945 Constitution states that citizens are native Indonesian people and people of other nations who are legalized according to the law as citizens (UUD 1945 Ps. 26 ayat (1)). This makes the concept of citizenship in Indonesia more complex, considering that the arrangements for citizenship status are regulated and reaffirmed in Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia.

In the elaboration of Law Number 12 of 2006, in addition to explaining the status of Indonesian citizenship obtained based on elements of birth, it is also explained regarding the selection of citizenship status for the subject of Children with Dual Citizenship limited to the age of 18 years or are married and also regulates the process of citizenship for foreign nationals who decide to proceed to become Indonesian citizens. The complexity regarding the status of Indonesian citizenship is directly related to the principles on which Indonesian citizenship is based, namely the principle of birth (*ius soli*), the principle of descent (*ius sanguinis*), and the principle of marriage. In addition, other principles are also regulated such as the principle of national interest, maximum protection, equality in law and government, substantive truth, non-discrimination, recognition and respect for human rights, and the principle of openness and publicity.

The principles used in the study of citizenship status form the basis for the implementation of rights and obligations for every citizen, one of which is related to the democratic system of Indonesian government (Widyatiningtyas et al., 2023). Democracy is understood as a political system that originates from the people so that the people will create norms that aim to protect their rights and become the basis of state life in order to uphold and defend the rights of citizens. Strong democracy is based on the desire of the people to advance the common good so that democracy also includes efforts to resolve conflicts in society and efforts to accommodate the interests of all parties (Povitkina & Bolkvadze, 2019).

Formal democracy has two interpretations, namely normative democracy and empirical democracy. Normatively, democracy is understood as a norm implemented by a state in running its government, while empirically, democracy is understood as a consistent social standard to be applied in people's lives (MacEwen & Evensen, 2021). Democracy in the Indonesian context is carried out as a

way of life of society based on Pancasila (Gumbira & Wiwoho, 2019). This then makes democracy a basic guideline in the implementation of governance in Indonesia, including in its political, economic, social and cultural aspects (Nuna & Moonti, 2019)

In the context of implementing a democratic system in society, it can be understood that there is no difference between people who are able and unable to accept and exercise their rights and obligations as citizens (Huda, 2022). The manifestation of the implementation of the rights and obligations of citizens in the implementation of democracy is realized in the holding of elections which is a democratic mechanism to create a government that has legitimacy that comes from the people's choices (Rosanti, 2020).

Elections are an integrated selection system that complement each other to produce quality leaders in a region through the selection of state systems, political parties (Urman, 2020), administration, to political selection which in the end is expected to be able to produce aspirational, qualified and legitimized leader figures. A good electoral system should be based on people's representation, easy and meaningful implementation, facilitate the formation of an effective, stable, accountable government, and be able to make the electoral process sustainable (Nugraha, 2022).

The problems that then arise related to the concepts of citizenship, democracy and elections are efforts to realize an election that is democratic but still does not rule out constitutional aspects, one of which is related to the aspect of citizenship in elections. If you look at the developments in recent years, several cases have emerged related to citizenship issues in Indonesia. Problems that arise are not only during the holding of elections, but also in the implementation of government administration, even the implementation of population administration in general, which sometimes still has problems in implementing citizenship validation.

These problems will become more complex if they are directly related to the implementation of elections which are the main aspects in the process of forming a legitimate government. Some examples of cases such as the Orient Patriot Riwu Kore case in the holding of elections in Sabu Raijua Regency, the case of the appointment of the former Minister of

Energy and Mineral Resources, to the elaboration of several general administration cases related to citizenship issues will be an illustration of the validation of the legitimacy of citizenship which requires a solution so that it does not appear to be a formality settlement, especially for the embodiment of elections in Indonesia in the future.

Study Cases of the Citizenship Issues in Indonesia

Some cases that can be used as a reference regarding of citizenship verification needed in Indonesia:

a. The Case of Orient Patriot Riwu Kore in the 2020 Sabu Raijua Regent Election

Problems related to the citizenship status of Orient Patriot Riwu Kore are cases that occurred during the implementation of the General Election for Regional Heads (Pilkada) of Sabu Raijua Regency, NTT, in 2020. The problem that later emerged started with a report to the Election Supervisory Body (Bawaslu) of Sabu Raijua Regency to carry out a resident identity verification for the candidate for Regent Orient P. Riwu Kore who was suspected of having dual citizenship.

Some of the actions that were then carried out were to re-verify the identity of the population which was carried out by the KPU of Sabu Raijua Regency through coordination with the Population and Civil Registry Service (Dispendukcapil) of Kupang City which is the institution issuing the electronic KTP concerned. This coordination effort resulted in a decision in a Dispendukcapil Minutes which stated that the resident identity owned by Orient P. Riwu Kore was valid and in accordance with the NIK concerned.

Bawaslu Sabu Raijua considers that the results of the decision on the Minutes of Dispendukcapil City of Kupang are considered insufficient as a basis for verifying the citizenship status of Orient P. Riwu Kore. Even though PKPU No. 1 of 2020 explained that the prospective pair of candidates who could be submitted for election contestation were citizens of the Republic of Indonesia, while in the case

of Orient P. Riwu Kore at that time it was suspected that he had a United States passport so that Bawaslu Sabu Raijua then wrote a letter to the Embassy. United States in Jakarta to ensure the legitimacy of his citizenship status.

The final outcome of this incident was decided by Constitutional Court (MK) Decision Number 135/PHP.BUP-XIX/2012 on April 15 2021 which stated that ownership of a United States passport in the name of Orient Patriot Riwu Kore resulted in the consequence that those concerned immediately lost status as an Indonesian citizen without having to go through an administrative mechanism for relinquishing citizenship (Ilvira, 2022).

In the case of Orient P. Riwu Kore there is a complicated administrative problem, bearing in mind that Article 54 of Law no. 23 of 2006 concerning Population Administration stipulates that an Indonesian citizen who is outside the territory of Indonesia and experiences a change in citizenship status must report a change in his citizenship status (Ilvira, 2022). In the case of Orient P. Riwu Kore, the person concerned did not explain or acknowledge ownership of a United States passport so that the incomplete information resulted in the Indonesian Consulate General issuing a Travel Letter Like a Passport (SPLP) as a passport replacement document when entering Indonesia with the aim of obtaining an Indonesian passport (Ilvira, 2022).

This can be categorized as a violation of several statutory provisions that can be subject to sanctions, including:

1. Violating the provisions of Article 6 and Article 23 of Law no. 12 of 2006, can be subject to imprisonment for a minimum of 1 year and a maximum of 4 years and a minimum fine of IDR 250,000,000.00 and a maximum of IDR 1,000,000,000.00 (Article 37 paragraph (2) of Law No. 12 of 2006).
2. Violating the provisions of Article 54 of Law no. 23 of 2006, can be subject to imprisonment for a maximum of 4 years and/or a maximum fine of IDR 50,000,000.00 (Article 93 of Law No. 23 of 2006).
3. Violating the provisions of Article 264 of the Criminal Code, can be subject to imprisonment for a maximum of 8 years (Article 264 of the Criminal Code).
4. Violating the provisions of Article 7 of Law no. 10 of 2016 jo. Article 4 KPU Regulation No. 1 of 2020, can be subject to imprisonment for a minimum of 36 months and a maximum of 72 months and a minimum fine of IDR 36,000,000.00 and a maximum of IDR 72,000,000.00 (Pasal 184 Perpu No. 1 Tahun 2014).

In the era of globalization and digitalization, the KPU does not only need to examine and verify the formal documents required for regional head candidates, but must track the citizenship status of the candidates so that cases of dual citizenship do not recur, such as the Orient P. Riwu Kore incident (Ilvira, 2022). It is questionable whether this incident illustrates the disharmony of regulations resulting in a legal vacuum regarding the regulation of citizenship in elections in Indonesia. There is a need for integration between institutions or government agencies, as well as international collaboration to create a database of citizenship status that is connected throughout Indonesia (Ilvira, 2022).

The Ministry of Law and Human Rights has basically created an online system that can be used by a person to declare or register their citizenship, but this system has not been able to provide access or facilities for someone to provide statements or information related to the renunciation of their citizenship status. The process that has been taking place so far is that if there is someone who wants to renounce their citizenship, they must report or attend to the General Legal Administration (AHU) or Legal Services section at least at the Regional Office level of the Ministry of Law and Human Rights. This is what causes ambiguity and data inconsistency between those recorded by the Directorate General of AHU, the Directorate General of Immigration and the Office of Population and Civil Registry.

b. The Case of Arcandra Tahar as the former Minister of Energy and Mineral Resources of the Republic of Indonesia

In this case it is known that the polemic over Arcandra Tahar's citizenship arose after his appointment as Minister of Energy and Mineral Resources (ESDM). Arcandra Tahar is known to have Indonesian and US passports but did not properly carry out the citizenship reporting process. Even though based on Article 23 of Law no. 12 of 2006 letters (a) and (b) state that Indonesian citizens lose their nationality if the person concerned: a) obtains another nationality of his own free will and b) does not refuse or does not relinquish other citizenship, while the person concerned gets the opportunity to do so (UU No. 12 Tahun 2006).

By losing his Indonesian citizenship status, Arcandra Tahar should have carried out a series of citizenship processes to regain his citizenship, including by going through the general procedure of residing in Indonesia for 5 consecutive years or 10 non-consecutive years. However, what happened later was that Arcandra Tahar received special treatment from President Joko Widodo through the appointment and restoration of citizenship status on the basis of services rendered to the nation and state of Indonesia or extraordinary citizenship (Ilvira, 2022).

This process is regulated in Law no. 12 of 2006 which states that foreigners who have served the Republic of Indonesia or for reasons of state interests can be given Indonesian Citizenship by the President after obtaining consideration from the House of Representatives of the Republic of Indonesia, except that granting citizenship results in the person concerned having dual citizenship (UU No. 12 Tahun 2006). Even though the discretionary process of granting Indonesian citizenship to Arcandra Tahar was not in accordance with the formal procedures of Law no. 12 of 2006 and contrary to Law no. 30 of 2014 concerning Government Administration which states that discretion can only be used to address concrete problems encountered in administering government, in the case of laws and regulations providing non-regulating, incomplete or unclear options, or there is government stagnation in exercising discretion (UU No. 30 Tahun 2014).

c. The Significant Issue of Citizenship Status and Its Validation and Legitimacy

Problems related to the validation of the legitimacy of citizenship status are issues that need to be resolved cross-agency and involve many institutions or ministries in Indonesia. The Directorate General of General Legal Administration (AHU) at the Ministry of Law and Human Rights (Kemenkumham) of the Republic of Indonesia is the agency that has authority over determining citizenship status in Indonesia. However, not many government agencies or institutions in Indonesia have collaborated with AHU to validate the legitimacy of citizenship in the stages of the policy implementation process. Whereas some agencies or institutions require validation of the legitimacy of citizenship status to ensure the performance of their agencies or institutions can run properly, such as is required in holding elections by the KPU or Bawaslu, or carrying out population administration data collection carried out by the Population and Civil Registry Service (Dispendukcapil).

The absence of an integrated system between government agencies or institutions is a problem that needs to be resolved by the government, although later system integration between government agencies or institutions also requires increased effectiveness in the process of validating the legitimacy of citizenship. In a case study that occurred at one of the Immigration Offices in Indonesia, the process of validating the validity of citizenship already has an integrated system with AHU to validate the legitimacy of one's citizenship. This integration process has been carried out in the passport service process for Indonesian Citizens through the Immigration Information and Management System (SIMKIM) which is run by the Directorate General of Immigration at Immigration Offices throughout Indonesia.

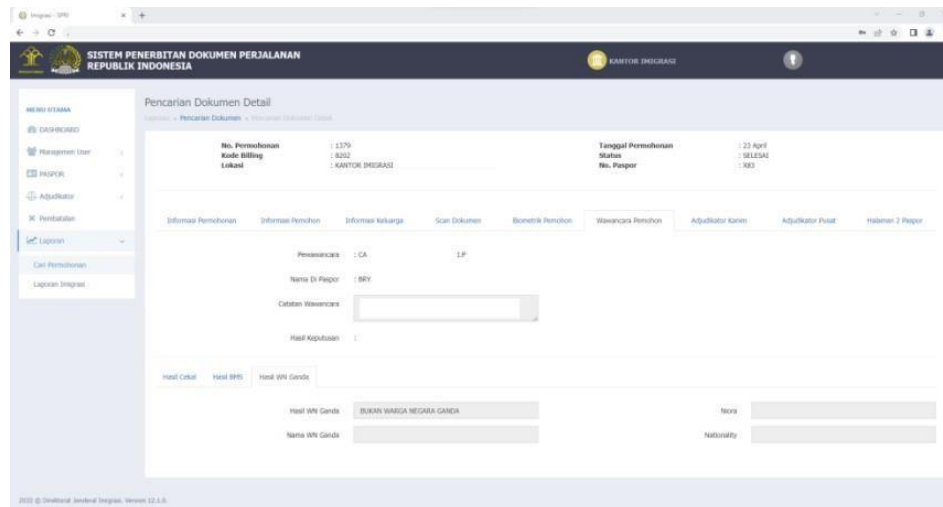


Figure 2. Citizenship Validation at SIMKIM
(Source: SIMKIM v.2, reformed by author, 2022)

The citizenship validation system that has been implemented in SIMKIM is in the form of checking dual citizenship status which will appear if the passport applicant is detected as having another nationality than Indonesian citizenship. As previously described, Indonesia is a country that adheres to the principle of single citizenship except for children who are categorized as subjects with limited dual citizenship with dual citizenship status limited to the age of 18 or married and given the opportunity to decide on choosing their citizenship within a period of 3 years.

The problem that later emerged in this process was the lack of effectiveness of the validation process for citizenship validity because several times the system was unable to detect dual citizenship of the passport applicant even though the passport applicant was known to be a subject of a Child with Dual Citizenship. For example, in the process of requesting a replacement for an Indonesian passport, a passport applicant on behalf of Brygitta (pseudonym) brings complete documents in the form of an ID card and old passport. At the beginning of the application process and checking of files, all files are considered to have no problems, especially because the person concerned was born in Indonesia, has an Indonesian KTP (ID Card) and an old passport issued at the Immigration Office in Indonesia, and does not appear dual citizenship status in the system during the passport application process.

Problems then arose when a few months later when Brygitta returned to the Immigration Office that issued her passport to request legalization of the validity of the passport in the process of relinquishing her foreign citizenship by attaching a Singapore passport which she did not bring when she was carrying out the process of replacing her Indonesian passport. It is also known that Brygitta did not convey about the ownership of foreign passports to officers when carrying out the process of replacing Indonesian passports at the Immigration Office. The point that was later considered by the officers to allow Brygitta to carry out the legalization process to relinquish her foreign citizenship was that at that time Brygitta was still 19 years old, even though according to the regulations stipulated in the Citizenship Law, it is legally obligatory to report dual citizenship status for children born under in 2006 with a time limit of up to four years or in 2010 so that they are not considered as foreign citizens.

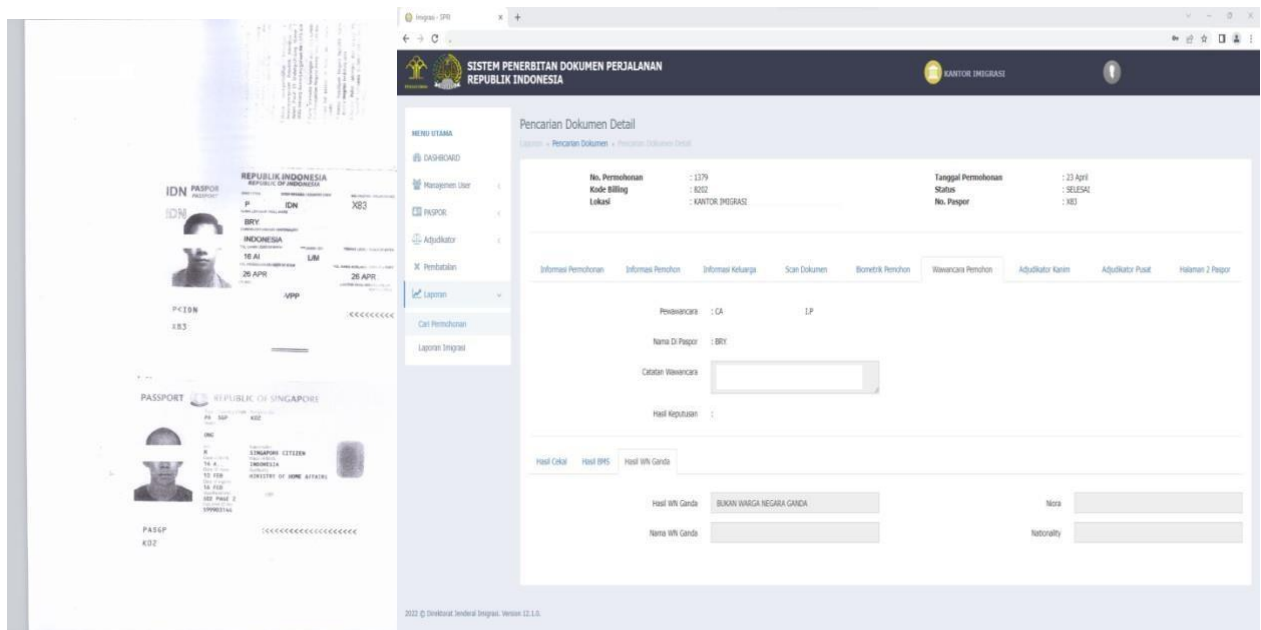


Figure 3. Passport Data and Citizenship Status of Brygitta
(Source: SIMKIM v.2, reformed by author, 2022)

This case becomes more complicated when it involves children born after the enactment of the 2006 Citizenship Law because the status as a Child with Dual Citizenship is automatically attached to the child without having to register for affidavit registration at the Immigration Office and only needs to decide on his citizenship status when he turns 18. years or already married. The problem of the status of children with dual citizenship is not yet a complicated problem if the child is not yet 18 years old or has been married, at least until the age limit has not passed 21 years or is already married. This is because when someone is 17 years old or already has an Indonesian KTP, that person feels that he or she is fully an Indonesian citizen. Even though it is not uncommon for someone who already has an Indonesian KTP to appear, the validity of their citizenship is still being questioned. For example, from the application for passports, 2 people on behalf of Asri and Lora (real names are pseudonym) submitting a type of application for a new and replacement passport.

In Asri's filing process, the applicant brings all original documents, namely KTP, KK and Birth Certificate. But the problem is, Asri has a place of birth in Malaysia, which legally recognizes citizenship status based on land of birth (*ius soli*) even for descendants of foreign nationals in their territory as long as the foreign national has at least a permanent residence permit. This problem became more complicated because Asri, as the passport applicant, actually brought an Indonesian Birth Certificate issued by the Dispendukcapil, even though Asri

should have brought Evidence of Reporting Foreign Births because Asri's Birth Certificate was an Overseas Birth Certificate issued in Malaysia.

In the process of further reviewing the files, it was discovered that Asri did indeed have a birth certificate issued by the Malaysian government, so that the issuance of a birth certificate from the Population and Civil Registry Office could be categorized as an error in the population administration process. Asri is also known to have never carried out the process of registering affidavits or statements choosing citizenship at the AHU Kemenkumham, even though Asri is a resident born in 1996 who is over 21 years old coupled with the fact that he is also married so legally citizenship is required to make a statement choosing citizenship.



Figure 4. The Birth Certificate of Asri and the Specimen of Overseas Birth Report (Sumber: SIMKIM v.2, reformed by author, 2022)

During the interview process with the officer, Asri had stated that he was a fully Indonesian citizen with proof of ownership of a KTP stating that his nationality was an Indonesian citizen. The same thing was done by Lora, the applicant for a replacement passport who brought his KTP and old passport and stated that during the previous passport application process the validity of his citizenship had never been questioned. Even though Lora was born in the United States, she has the principle of *ius soli* citizenship and has never gone through the process of declaring her choice of citizenship and also has a birth certificate issued by the Population and Civil Registry Office even though she was born abroad.



Figure 5. The Indonesian Identity Card of Asri dan Lora (Source: SIMKIM v.2, reformed by author, 2022)

The problems experienced by Bryggita, Asri and Lora illustrate that the process of validating the validity of citizenship is not only determined by the possession of a KTP, but requires an in-depth process, including the validating process of the paperwork thoroughly and coordinating with AHU because this process is a complex process. Multi-agency coordination and cooperation and government agencies are needed in order to form a comprehensive system that can carry out the process of validating the legitimacy of citizenship quickly and precisely. This will certainly be very useful in the process of improving population administration in the future, including in the process of nominating election participants in the future.

Validation of Citizenship Legitimacy in Election

For the the Indonesian Election Purpose, there are several regulations that form the basis for setting citizenship status for candidates participating in elections. In the 1945 Constitution, for example, Article 6 paragraph (1) states that "the candidate for President and candidate for Vice President must be an Indonesian citizen since birth and have never accepted another citizenship because of their own will, have never betrayed the country, and are physically able to and spiritually to carry out the duties and obligations as President and Vice President" (UUD 1945 Ps. 6 ayat (1)). The existence of a clause as an Indonesian citizen since his birth is a point which means that the legitimacy of his citizenship status needs to be examined starting from the process of origin of a person's birth, up to the stage of the nomination process in the election.

In the case of regional head elections (pilkada) it is also explained by General Election Commission Regulation (PKPU) Number 1 of 2020 concerning the Third Amendment to PKPU Number 3 of 2017 concerning Nominations for the Election of Governor and Deputy Governor, Regent and Deputy Regent, and/or Mayor and Deputy Mayor article 1 paragraph (18) which states that "the prospective pairs of Candidates for Governor, Deputy Governor, Regent, Deputy Regent, Mayor or Deputy Mayor, hereinafter referred to as Prospective Candidate Pairs, are Indonesian citizens proposed by a Political Party or coalition of Political Parties or individuals who are registered with the Aceh Provincial KPU/KIP or Regency/City KPU/KUP to take part in the election" (PKPU 1/2020, Ps. 1 ayat (18)).

The problem that occurs later is that the process of nominating candidates in the presidential and vice-presidential elections, local elections. Other than that, it also happened at the legislative elections (pileg) do not yet have adequate stages of validation of citizenship. In the process of nominating potential pairs of candidates in elections in Indonesia, the process of validating the legitimacy of citizenship is carried out by checking the National Identity Card (KTP), which is the valid population identity in Indonesia. In the KTP there is information stating a person's citizenship status, but when examined in more depth, the process of including citizenship status needs to be re-examined regarding its validity considering that from the several cases mentioned in this paper previously, it has been proven that a person's citizenship status is not sufficiently proven by simply only show the KTP, but still require a review and validation process which is the duty and function of the Directorate of AHU, Ministry of Law and Human Rights.

In the study of system theory which forms the basis of the analysis in this study, inter- agency collaboration is needed which is built at least between the KPU and AHU and even Immigration if necessary, to be able to carry out the process of validating the validity of citizenship in an integrated and continuous manner so that the process of validating the validity of citizenship can run quickly however, it is still appropriate in deciding a case on the legality of citizenship for prospective election participants in Indonesia.

The cases regarding the legitimacy of citizenship that have been described in this article previously can be input that will provide demands for improving the system of validating the legitimacy of citizenship in elections in Indonesia. It is hoped that these inputs will form the basis for the process of forming integrated rules and systems between the KPU, AHU, and other agencies such as Immigration and the Population and Civil Registry Office which are needed in the process of validating the legitimacy of citizenship in Indonesia. An integrated process between agencies will form an output in the form of policies and arrangements for the process of validating the legitimacy of citizenship in elections in Indonesia, resulting in a better system compared to the dual citizen check system that has been running before, so that it will be able to facilitate the KPU (National Election Department In Indonesia) in validating the legitimacy process of the citizenship in the future.

4. CONCLUSION

Citizenship is an identity that is attached to a community of class, group, ethnicity, even a nation (country) that allows a sense of ownership and gives rise to social rights and obligations between the two. In the process of holding elections in Indonesia, there is not yet a system that is comprehensively

integrated between agencies that allows validation of the legitimacy of good citizenship. This is an obstacle because so far the KPU, as the organizer of elections in Indonesia, only requires the ownership of a KTP as an Indonesian citizenship identity document that is used by prospective election participants to register themselves as participants in elections.

In fact, as previously described, the ownership of a KTP is not the only requirement for obtaining Indonesian citizenship status, but a more in-depth study is needed regarding the existence of several cases of dual citizenship for Indonesian citizens who already have KTPs. In applying the study of the system theory used in this study, the cases which form the basis of input in the process of establishing an integrated and sustainable citizenship validation system between agencies in Indonesia are expected to produce several outputs other than the system to be used in the process of validating the validity of citizenship in holding elections in Indonesia itself.

Another expected output is a comprehensive outreach effort for agencies directly involved in the process of determining citizenship status in Indonesia such as AHU, Immigration and the Population and Civil Registry Office so as to minimize mistakes in determining citizenship status in Indonesia. With a comprehensive socialization, it is hoped that it will be able to increase the ability to determine validation of the legitimacy of citizenship which can later be implemented in an integrated system with the KPU so that the process of determining the validation of the legitimacy of citizenship in elections can run quickly and accurately.

The process of validating the legitimacy of good citizenship is necessary to form a better election administration so as to minimize the potential for dualism of interests that can occur if candidates contesting elections in Indonesia are found to have dual citizenship or even have nationalities other than Indonesia. By holding better elections, it is expected to be able to create a government that is competent and credible in realizing a better future for Indonesia in the future.

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