

A NORMATIVE REVIEW OF THE SIMULTANEOUS GENERAL ELECTION AND REGIONAL HEAD ELECTION DELAY

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ABSTRACT

A government system based on people's sovereignty can be called a democratic government system. Democracy itself is realized by a government based on representatives of the people who are democratically elected by means of general elections. General elections or elections are a logical consequence of a country that adheres to a democratic system, and democracy is a safe way to maintain control over the rule of law. article 3 of Law NO. 7 of 2017 concerning ELECTIONS states that ELECTIONS must be held based on the principles of being effective and efficient. Therefore, the separation of national elections and local elections is to represent the existence of this article. Simultaneous elections to be held in 2024, namely elections on a national and local scale, will bring various negative impacts. If the 2022 and 2023 Regional head elections are postponed and held in 2024, the Jakarta-centric issue is very dominant and local issues or agendas are sidelined. Meanwhile, the regulation related to the postponement of the Regional head election is contained in Article 201 paragraph (9), (10), and (11) of Law no. 1 of 2015 concerning Stipulation of Government Regulation into Law no. 1 of 2014 concerning the Election of Governors, Regents, and Mayors into Law.

Keywords: General Election, Regional Head Election.

Introduction

Elections are an important instrument in every democratic country, because the holding of elections is a hallmark of a democratic country. Elections are a tool that serves to screen politicians who will represent the people in representative institutions. Thus, elections can be interpreted as a mechanism for resolving and delegating or handing over sovereignty to people or parties who are trusted by the people.¹ Indonesia is a country that

¹ Huda, N. (2018). *Hukum Partai Politik dan PEMILU Indonesia*. Fokus Media.

adheres to a democratic system, so it is necessary to conduct periodic and continuous leader elections, for example, regional head elections are held once every 5 years.

Jimly Assidique stated that the election of regional heads and deputy regional heads is a general election to elect regional heads and their representatives directly in Indonesia by local residents who meet the provisions of laws and regulations. The election of regional heads (hereinafter referred to as Regional head election) is one of the political activities as the implementation of the people's sovereignty rights in choosing leaders for a period of 5 years and this is enshrined in Article 3 paragraph (1) of Law No. 10 of 2016 in *conjunction* Law No. 1 of 2015 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2014 concerning the Election of Governors, Regents, and Mayors to become Laws.

The first simultaneous regional elections were held in 2015 in December aimed at Regional Heads whose term of office ended at the end of 2015 and the beginning of office in 2016. Furthermore, the second Regional head election was held in 2016 in February for Regional Heads whose terms ended in 2016 and 2017 The third Regional head election will be held in 2018 in June, for Regional Heads whose positions end in 2018 and 2019. Furthermore, for the fourth Regional head election simultaneously held in December 2020, then for the fifth batch of Regional head election, it will be held in 2022 for Regional Heads resulting from the 2017 Election and the sixth wave will be implemented in 2023 for Regional Heads as a result of the 2018 election.

Based on these stages, if you look at the Revision Draft of the Election Law and Regional head election contained in the National Legislation Program (Prolegnas) the DPR's priority 2021 regulates the plan to normalize the simultaneous Regional Head Election. next a, in 2022 and 2023. However, the revised draft was withdrawn from the National Legislation Program, so this is not in accordance with the previous Law Number 10 of 2016 where the Regional head election was held simultaneously in every Province, Regency, and City which was held in 2024 at the same time as the Presidential Election. , DPR, DPRD, and DPD. So based on the explanation above, there is a formulation of the

problem to be discussed, which is related to the juridical review of the postponement of the 2022/2023 regional election which will be held in 2024.

Research Methods

This study uses normative legal research methods. Normative legal research is a method or method used in legal research that is carried out by examining existing library materials. One approach in normative research is the statutory approach because what will be studied are various legal rules that are the focus as well as the central theme of the research.²

Discussion

Indonesia is a country that adheres to a democratic system as stated in Article 1 paragraph (2) and paragraph (3) of the 1945 Constitution of the Republic of Indonesia explaining that Indonesia is a democratic legal state. Henry B. Mayo argued that democracy is a political system which shows that public policies are determined by a majority of representatives who are effectively monitored by the people in periodic elections based on the principle of political equality and held in an atmosphere of political security.³ The reality is that in the life of the state administration and state administration, the people are positioned centrally in the sense of the people as rulers (*government or role by the people*), meaning that the essence of democracy is as a state and social system and the government accentuates the existence of power in the hands of the people, both in the administration of the state. or government. One of the theories of democracy is that government is in the hands of the people, which includes three things: government of *the* people, government by *the* people, and government *for the* people.

A government system based on popular sovereignty can be called a democratic government system. Democracy itself is realized by a government based on representatives of the people who are democratically elected by means of general elections (elections). The

² Johny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Malang: Bayu Media, 2006 hal 302.

³ Harimurti, Y. W. (2021). *Negara Hukum Dan Demokrasi*. Setara Pers.

implementation of the principle of democracy itself is a manifestation of human rights in the political field which is divided into three parts, namely: 1) Everyone has the right to participate in government; 2) Everyone has the right to the same opportunity to be appointed to a government position; 3) Everyone has values and dignity that must be recognized and respected.

General elections or elections are a logical consequence of a country that adheres to a democratic system, and democracy is a safe way to maintain control over the rule of law. According to Satjipto Rahardjo, a democratic election is an institution that regenerates a new social contract between the people and government leaders. Meanwhile, according to Jimly Asshiddiqie, besides being the embodiment of democracy and human rights, the election also aims to fill and carry out an orderly change of leadership.

General elections are one of the pillars for the establishment of a democratic system. Therefore, the purpose of elections is none other than to implement the principles of democracy by electing representatives of the people in the government order. According to Prof. DR Jimly Assiddiqie, SH stated that the importance of holding elections regularly is that one of the opinions or aspirations regarding various aspects of life together in society is dynamic and develops from time to time. Therefore, it is necessary to organize an orderly succession of *rulers*. Currently, there is a discourse regarding the postponement of the 2024 election with one of the reasons being the lack of budget funds and the Covid-19 pandemic.

But on the other hand, what has happened is that the postponement of the regional elections that should have been held in 2022 and 2023 will instead be held in 2024 simultaneously with the national elections. On the one hand, the separation between Regional head election and national elections does have consequences, for example, it can increase political costs because elections which are usually held once have changed to twice every five years. This means that times of uncertainty will increase, especially when the smell of violent politics, especially campaigns, is still strong and fertile.

So it is necessary to pay attention to how the impact will occur to the community if the elections are held simultaneously with the national elections, for example, the elections that are held concurrently with the National Election will further increase the workload on

election organizers so that it does not rule out the possibility of an election tragedy in 2019 which claimed lives. as many as 554 KPPS officers were repeated.⁴ The next impact for the community will be confusion about choosing because of the large number of candidates and it is possible that the Regional Election will lose the spotlight of the community because people are more interested in discussing the National Election. Furthermore, if the Regional head election is not held in 2022 or 2023, the people who cannot get their rights to obtain a permanent leader after the term of office of the Regional Head expires, even though the vacant term of office will later be filled by the person in charge of the region, but filling the position will actually have the potential to can give rise to new problems.

Regional head election in Indonesia is held every 5 years as stipulated in Article 22E of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia), the existence of this election is not only about the campaign mechanism, but also the dynamics and procession of the inauguration. However, the virtue of having Regional head election is for the welfare and development of the people in each region through various kinds of development efforts by coordinating with the central government which must reach the target point, because each regional leader must have a different political background.⁵

Article 18 paragraph (4) of the 1945 Constitution of the Republic of Indonesia reads "Governor, Regent, and Mayor respectively as heads of provincial, district and city governments are democratically elected." Policies in determining how to elect Regional Heads are based on the Act. The policy of holding simultaneous regional elections began in 2019, departing from the desire to minimize large budget expenditures. As seen in the article on Postponing the Regional Head Election which is based on the principle of legality because of the rules that regulate it. Article 1 paragraph (1) of Law No. 10 of 2016 in *conjunction* Law no. 1 of 2015 concerning the stipulation of government regulations in lieu

⁴ CNN Indonesia. (2019). *Total 554 Orang KPPS, Panwas dan Polisi Tewas di Pemilu 2019*. CCN.Com. <https://www.cnnindonesia.com/nasional/20190507084423-32-392531/total-554-orang-kpps-panwas-dan-polisi-tewas-di-pemilu-2019>.

⁵ Nusantara, B. G. (2022). Politik Hukum Penyelenggaraan Pilkada Serentak Tahun 2024 (Potret Perdebatan Partai Politik Di Parlemen). In *Universitas Islam Negeri Syarif Hidayatullah* (Vol. 2024, Issue 8.5.2017).

of law number 1 of 2014 concerning the election of governors, regents, and mayors into law "The Election of Governors, Regents, and Mayors, hereinafter referred to as Elections is the implementation of people's sovereignty in the Provinces and Regencies/Cities for elect Governors, Regents, and Mayors directly and democratically."

In article 3 of Law NO. 7 of 2017 concerning ELECTIONS states that ELECTIONS must be held based on the principles of being effective and efficient. Therefore, the separation of national elections and local elections is to represent the existence of this article. Simultaneous elections to be held in 2024, namely elections on a national and local scale, will bring various negative impacts, as explained by the author above. If the 2022 and 2023 Regional head election are postponed and held in 2024, the Jakarta-centric issue is very dominant and local issues or agendas are sidelined.

In this reform era, the local political arena has not been developed independently. As a result, not only local politicians are highly dependent on national politicians, but political behaviour is not coloured by local aspirations but is more influenced by the centre. This situation is contrary to the objectives of the establishment of the state and the Government of the Republic of Indonesia as stated in the Preamble to the 1945 Constitution. Based on these objectives, the political arena should provide space for aspirations for "all" not "parts" of the Indonesian nation. Furthermore, the political arena should be responsive not only to the demands of the big people in the capital but also to the demands of the small people in various parts of the country.

Arrangements related to the postponement of the election are contained in Article 201 paragraphs (9), (10), and (11) of Law no. 1 of 2015 concerning Stipulation of Government Regulation into Law no. 1 of 2014 concerning the Election of Governors, Regents, and Mayors into law, as follows: paragraph (9) *"To fill the vacancies in the positions of Governor and Deputy Governor, Regent and Deputy Regent, Mayor and Deputy Mayor whose term of office ends in 2022 as referred to in paragraph (3) and whose term of office will end in 2023 as referred to in paragraph (5), are appointed as officials as referred to in paragraph (3) Governor, acting Regent, and acting Mayor until the election of the Governor and Deputy Governor, Regent and Deputy Regents, as well as Mayors and Deputy Mayors*

*through national simultaneous elections in 2024". Paragraph (10) "To fill the vacant position of the Governor, an acting Governor is appointed from the middle high leadership position until the inauguration of the Governor in accordance with the provisions of the legislation". Paragraph (11) "To fill the vacant position of the Regent/Mayor, an acting Regent/Mayor is appointed from the high-ranking pratama leadership position until the inauguration of the Regent and Mayor in accordance with the provisions of the legislation."*⁶

A political observer from Indonesia's Al Azhar University (UAI), Ujang Komarudin, believes that the simultaneous local elections in 2024 will make the region unhealthy. Because the executor of the task (Plt) will be unemployed for two years. In line with what was conveyed by Ujang Komarudin, Chairman of the DPP for the Prosperous Justice Party (PKS) for Politics, Law and Security, Almuzammil Yusuf, stated that his party supports the discourse on holding regional elections in 2022 and 2023. Because he is worried about the merger of regional and presidential elections in 2022 and 2023. The year 2024 caused many problems like what happened in 2019. Muzammil asked that the Election Bill which is being discussed in Parliament should review the 2019 simultaneous elections. Based on his observations, the 2019 simultaneous elections contain problems that have not yet been resolved.⁷

With the separation between Regional head election and national elections, Indonesia will gain several advantages, as follows: (1) voters can clearly distinguish between local politics and national politics. And the separation of the election schedule makes local elections more independent from capital politics. This independence will make politics and Jakarta-issues uncomfortable at the local level. As a result, (2) local politicians will find it difficult to simply ride the name of national politicians and politicians are "forced" to adopt and be responsive to local issues if they want to survive in local politics. The institutional implications of this change are (3) political parties are forced to seriously

⁶ Rita Widyana, M., Fikriansyah, A., Muhammadiyah Yogyakarta Jl Brawijaya, U., Kasihan, K., & Yogyakarta, B. (2021). *Analisis SOAR: Dampak Pelaksanaan Pilkada Serentak 2024 SOAR Analyze: The Impact of the 2024 Simultaneous Regional Elections*. 4(2), 52–65.

⁷ Indira Rezkisari. (2021). *Pro Kontra Normalisasi Pilkada, Setelah atau Bareng Pilpres?* Republika.Go.Id. <https://www.republika.co.id/berita/qnp1xy328/pro-kontra-normalisasi-pilkada-setelah-atau-bareng-pilpres-part2>

build their organization and support base at the local level. (4) Then, raising local issues in the political arena stimulates the people to be aware of everyday issues that are relevant to the political process. The awareness of the voters about the correlation between the political process and everyday issues could be a *breakthrough* in Indonesian politics. Therefore, the awareness of the correlation between the political process and everyday issues will make (5) abstract ideological disputes that must be translated into practical ideological competitions. Thus, even though the ideology or sect still exists, practical translation of the ideology so that it is relevant to people's daily issues is important. This practical ideological competition will in turn make (6) the political process transactional. This means that voters do not only vote or support politicians, but also demand compensation in the form of political or state care for the interests and aspirations of the voters. With this transactional political process, (7) the interests and livelihoods of the people at the local level will be considered because in a transactional process the people can punish politicians/political parties by choosing other politicians/political parties.

Therefore, the simultaneous general election has a logical consequence on the postponement of the 2022 and 2023 Regional head election where it will reduce the benefits that should be obtained by the region in the political sphere. This is rarely noticed by politicians and also the government because it is too focused on the consequences of a lack of budget. Even though the procurement of the 2024 simultaneous elections will actually cost quite a bit of money.

Conclusion

General elections or elections are a logical consequence of a country that adheres to a democratic system, and democracy is a safe way to maintain control over the rule of law. in article 3 of Law NO. 7 of 2017 concerning ELECTIONS states that ELECTIONS must be held based on the principles of being effective and efficient. Therefore, the separation of national elections and local elections is to represent the existence of this article. Simultaneous elections to be held in 2024, namely elections on a national and local scale, will bring various negative impacts. If the 2022 and 2023 Regional head election are

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