

Legal Politics of Holding the 2024 Elections the Absolute and Ideal and Constitutional

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ABSTRACT

Background. The holding of simultaneous elections on April 17 2019 is a new history in the general election process in Indonesia. This is an implication of the Constitutional Court Decision Number 14/PUU/2013 in the case of reviewing Law Number 42 of 2008 concerning the General Election of the President and Vice President. Even though the simultaneous elections have been judged to be better than the previous elections, it does not mean that they do not have deficiencies in their implementation.

Purpose. The most shocking problem was the large number of fatalities by election organizers which were considered to be the impact of the 2019 simultaneous election and other technical problems.

Method. Looking at the various sides that emerged from the 2019 elections, the Association for Elections and Democracy (Perludem) conducted a judicial review of the 1945 Constitution to the Constitutional Court as outlined in the Constitutional Court Decision Number 55/PUU-XVII/2019.

Results. In his argument, the applicant conveyed a number of things related to the analysis that had been carried out in the implementation of the simultaneous elections which were held in 2019 yesterday. In the results of this decision, the Constitutional Court reject the applicant's application in its entirety because it is considered that the application has no legal grounds.

Conclusion. However, the Constitutional Court provided options related to simultaneous election models that can be selected and considered constitutional based on the 1945 Constitution.

KEYWORDS

Absolute, Constitutional, Elections

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INTRODUCTION

Election organizers in Indonesia should be able to build an election system that can be applied for a long time with the same model (Kampf dkk., 2020). So that in every election there is no need for new laws or regulations because there are already complete and coherent regulations. General elections are a tangible manifestation of the implementation of democracy in Indonesia which provides a role for citizens to be able to participate directly in the election of public officials. This proves that superiority remains in the hands of the people



(Zhou dkk., 2019). Democracy and democratic elections are "qonditio sine qua non", one cannot exist without the other. In the sense that elections are interpreted as procedures to achieve or democracy is the procedure of handing over people's sovereignty to certain candidates to seize political office. (Zulhidayat, 2021b)

Elections are only instruments and can be guaranteed based on constitutional principles and the policy direction of the country concerned (Cheng dkk., 2020). Therefore, it can be maintained or changed if it is seen as the correct way of democracy under certain conditions (Z. Wang dkk., 2019). Finalizing a choice must go through a lot of thought and experience to determine whether the choice is good or bad. The political system in Indonesia is the direct election of the President and Vice President, which is a form of popular sovereignty where the people can determine directly who is the leader of their government (Walsh dkk., 2020). This is actually not new to the Indonesian government system, because in every region in Indonesia, namely At the village level, the community elects the head directly, but only in 2004 was the election of the head of government at the national level, namely the new president and vice president used in Indonesia.(Khasanofa & Zulhidayat, 2020)

There are still many who consider that this election is only a routine event of five annual harm to the people. Election results alone cannot build a just and prosperous society at the will of the founding fathers. Although we realize that there are still many people who are not ready and fail to interpret it (Ali dkk., 2019). According to Pahlavi, the readiness in question is better political awareness and the level of public participation in holding elections (Norris & Inglehart, 2019). If it is said that today's society is intelligent but it means that whoever gives the lure will be accepted but when voting is a personal matter, then it must be changed that political consciousness really starts from the beginning of the election stage to the end of the election. At the time of voting that there is no term tolerate money politics in any form.(Sopiani & Mubaraq, 2020)

In the history of the implementation of the general election process, legislative elections and presidential elections have always been held separately (Zhang dkk., 2020). This makes some people feel that its implementation is inefficient and not in accordance with the 1945 Constitution. Through this problem, Effendi Gazali filed an application for review of Law Number 42 of 2008 concerning Presidential and Vice Presidential Elections against the 1945 Constitution in the Constitutional Court decision Number 14 / PUUXI / 2013.(Zulhidayat, 2021c)

Regarding whether the conduct of the Presidential and Vice Presidential elections held after the Legislative Elections is contrary to the constitution or not, the Constitutional Court in its decision this time changed its consideration (Parisi dkk., 2019). Previously, in Decision No. 51-52-59/PUU-VI/2008 dated February 18, 2009, the Constitutional Court held that Article 3 paragraph (5) of Law No. 42 of 2008 does not contradict the constitution because it is customary, which may indeed contradict the laws of logic.(Noer dkk., 2021) This is because the President and/or Vice President is appointed by the MPR, so in general logic, the MPR must be formed first. So the first election of the House of Representatives, DPRD, DPD is logical (Lurie dkk., 2020). The Constitutional Court calls this a desuutudo or constitutional convention (adat) so that it does not contradict the constitution. Therefore, this study will analyze how the legal politics of holding the 2024 elections are absolute and ideal and constitutional?

RESEARCH METHODOLOGY

This research will use normative juridical research methods (literature studies), this research emphasizes more on literature studies where it will analyze the rules that are and associated with how the implementation of these norms is implemented.(Sri, 2018) The primary source of this

research comes from laws and regulations, the secondary source of research consists of books and journals of previous research journals, and the Tertiary Source consists of the Encyclopedia of Law. The analytical technique in this study uses descriptive analytical.

RESULT AND DISCUSSION

The holding of simultaneous elections in 2019 had a positive impact on increasing citizen participation (Phillips dkk., 2020). Based on the results of data released by the General Elections Commission (KPU), voter participation in the 2019 simultaneous elections reached 81.97% in the Presidential and Vice Presidential elections. Meanwhile, the number of voters in the Legislative Election reached 81.67%. In the previous election, voter participation in the 2014 election only reached 70% for the Presidential Election and 75% for the Legislative Election.⁷ From these data, it can be seen that holding simultaneous elections has a positive influence in increasing public participation in exercising their voting rights.(Zulhidayat, 2021a)

Seeing the increasing number of voters, it cannot be separated from the problems it causes. According to Suprianto's education, the 5-box simultaneous regional election in 2019 was the most complicated election implementation and posed a heavy burden for organizers and also for voters. ⁸ Voters were then confused because of too much paper and uneven socialization in the community, so there was a significant difference in public participation in the presidential election with legislative elections (Carleo dkk., 2019). According to the Founder of the Indonesian Survey Institute (LSI) ⁹, with the combination of presidential elections and legislative elections (Abuhassna dkk., 2020), public discussions about legislative elections are not sunk and neglected because around 70% of public discussions are about presidential elections and 30% legislative elections.

The high percentage of voter participation in the presidential election compared to the legislative election is because the majority of aspects covered by the media are presidential elections. So that the information obtained related to candidates, vision and mission, as well as political parties carrying presidential candidates and vice presidents has a larger portion in the media compared to legislative elections (Glare dkk., 2019). So that many people from choosing and In general, there are several points that can be used as a benchmark in assessing the performance of election organizers. In terms of law, both Article 22 E Paragraph 5 of the 1945 Constitution, Law 10/2016, and Law 7/2017 as well as various regulations or decisions regarding elections in Indonesia, the holding of elections is the key to the success or failure of holding elections. Election. Regarding the holding of simultaneous elections in 2019, problems and obstacles certainly did not escape the election organizers (Lisio dkk., 2019). Related to this, the KPU and Bawaslu, which are the organizers of the 2019 elections, are considered not optimal in carrying out their responsibilities.(Zulhidayat & Aslamiyah, 2021)

Based on the results of the study of Indonesia Corruption Watch (ICW), the Constitution and Democracy Initiative (Initiative Code), the Association for Elections and Democracy (Perludem), and the Election and Democracy Syndicate (SPD) reviewed the performance of election organizers namely the KPU and Bawaslu (Zong dkk., 2019). In terms of the independence of the KPU and Bawaslu, there are several doubts that become questions, such as in decision making and drafting regulations on the ratification of political parties as election participants where the KPU changes the mechanism by sampling method, while the political parties themselves determine the sample. In terms of professionalism, according to experts, it is quite good (Van Trotsenburg dkk., 2021).¹⁰ Seen from the ability to divide tasks and roles, scale priorities, socialize the implementation of elections, and apply collegial principles in decision making.

The holding of simultaneous elections in 2019 has a positive impact on strengthening the presidential system. Simultaneous elections create a congruent government so that parties have no other choice, so having to file disputes early before elections results in a simplification of the party system in parliament where the elected president comes from an alliance of parties that control a majority in parliament (Johdi & Sukor, 2020). The formation of conspiracy theories in the run-up to the election and the coattail effect were contributing factors (Zemek dkk., 2019). The stigma of society that prioritizes and prioritizes the presidential election affects the electability of legislators from coalition parties supporting presidential candidates (Adegbeye dkk., 2020). In parliament, political parties carry the vision and mission of the party as a form of public policy in the administration of government (Y. Wang dkk., 2020). So that political parties in parliament are disproportionate in carrying out their duties and functions, namely in the government, both opposition and opposition. The goal is to maintain the stability of the president-elect's government so that the president can easily get political support from parliament to launch political policies made by the president.(Zulhidayat dkk., 2022b)

According to Scott Mainwaring's research, presidents are rarely elected from the majority party. With the election of a minority president, in order to get a majority in parliament, the president will try to strengthen his position through coalitions, but in a multiparty presidential democracy, it is much more difficult to build a stable coalition. This is because alliances are not binding, so in a presidential system, the desire of political parties to dissolve coalitions is stronger.

In the results of Constitutional Court Decision Number 55/PUU-XVII/2019, the Constitutional Court rejected the petitioner's application entirely because it was considered that the application was without legal grounds.(Arief, 2022) However, the Constitutional Court provides options related to the model of simultaneous elections that can be chosen and considered constitutional based on the 1945 Constitution, including:

1. Simultaneous general elections to elect members of the DPR, DPD, President/Vice President, and members of the DPRD;
2. Simultaneous general elections to elect members of the DPR, DPD, President/Vice President, Governor, and Regent/Mayor;
3. Simultaneous general elections to elect members of the DPR, DPD, President/Vice President, members of the DPRD, Governors, and Regents/Mayors;
4. National simultaneous elections to elect members of the DPR, DPD, President/Vice President; and some time after that local simultaneous elections were held to elect members of the Provincial DPRD, members of the Regency / City DPRD, elections for Governors, and Regents / Mayors;
5. National simultaneous elections to elect members of the DPR, DPD, President/Vice President; and some time thereafter held simultaneous provincial elections to elect members of the Provincial DPRD and elect governors; and then some time after that simultaneous general elections were held to elect members of the DPRDKabupaten/Kota and elect Regents and Mayors;
6. Other options as long as they maintain the concurrent nature of elections to elect members of the DPR, DPD, and President/Vice President;

Based on the results of the evaluation conducted in this paper, the most ideal simultaneous election model is a national simultaneous election to elect members of the DPR, DPD, President/Vice President; and some time after that regional elections were held simultaneously to elect members of provincial parliaments, members of district/city parliaments, governors, and regents/mayors. The simultaneous regional election model can be a solution to the shortcomings

and problems experienced in the 2019 simultaneous regional elections, especially in voter participation, election organizer performance, and strengthening the presidential system and strengthening the regional government system.(Zulhidayat, 2018)

In terms of voter participation, the above model is expected to balance voter participation in the presidential election and members of the DPR and DPD. Where in the 2019 election, although the percentage of voters increased in the previous election, a balance has not been achieved between the votes in the presidential and legislative elections. There are too many candidates to be elected, so many people vote or abstain from legislative elections. Voters find it difficult to provide rationality in voting because there are too many choices or ballots. The tally of invalid votes also increased from 10% in the 2014 Presidential Election, then increased in the 2019 Legislative Election to 11%. The simultaneous election model above is expected to be able to realize voter comfort in choosing and maintain voter rationality in order to produce quality elected candidates.

In terms of strengthening the presidential system of government, this electoral model can still be an option. The 2019 election showed that the simultaneous election model to elect the President and the House of Representatives proved to produce a congruent government, in which the pair of presidential and vice presidential candidates received the support of a majority of the House of Representatives from the coalition. This harmonious government is the main capital to realize an effective presidential system.(Zulhidayat & Separen, 2022)

In terms of strengthening the local government system, based on the analysis of the 2019 election, the separation of the election of DPRD members from the provincial and regency/city elections is one of the causes of weak local governments in paying taxes. pay attention to public demands on regional issues.(Mastorat, 2020) The relationship between candidates for regional heads and members of the DPRD is often deadlocked in every policy proposed by the regional head that is rejected by the DPRD. The trigger was the difference in political background between regional heads and DPRD. With this election model, it is hoped that later the DPRD and provincial and district / city heads will be elected. Able to carry out functions in regional government in managing regional autonomy.(Zulhidayat dkk., 2022a)

CONCLUSION

From the results of the discussion above, it is necessary to conduct an in-depth analysis regarding the simultaneous election model that will be held in 2024. All aspects need to be considered starting from the impact of voters, the impact of political parties, the impact on election organizers and the impact on the presidential system of government and local government. In this paper, the most ideal election model is a national simultaneous election to elect members of the DPR, DPD, President/Vice President; and some time after that regional elections were held simultaneously to elect members of provincial parliaments, members of district/city parliaments, governors, and regents/mayors. In addition, in supporting the performance of election organizers, the government can make breakthroughs by utilizing technology with an e-voting system to support the holding of simultaneous elections in 2024. In the upcoming 2024 election, the author hopes that later the shortcomings and problems experienced in the previous election can be used as a lesson. The readiness of all parties is expected to be able to realize democratic elections. The form of public participation in the general election is of course also very expected. Respect each other's choices without damaging family relationships.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation; Supervision; Validation; Formal analysis; Methodology; Writing - original draft

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